



Reprinted
March 27, 2007

ENGROSSED HOUSE BILL No. 1192

DIGEST OF HB 1192 (Updated March 26, 2007 4:30 pm - DI 52)

Citations Affected: IC 13-11; IC 13-19; IC 13-23; IC 13-25;
IC 13-30; IC 34-11; IC 36-1; IC 36-7; noncode.

Synopsis: Environmental matters. Requires the department of environmental management (department) to provide notice of a release from, a spill from, or an overfill of an underground storage tank (UST) system to the county health officer of each county in which the release, spill, or overfill occurred. Requires a county health officer that receives notice from the department to: (1) publish notice of the release, spill, or overfill in a newspaper of general circulation in the county health officer's county; and (2) provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate. Adjusts limitations on payments from the excess liability trust fund. With respect to the prohibition against installation of certain USTs before the effective date of certain rules, adds to the criteria for exception from the prohibition the requirement that all newly installed or replaced piping connected to the tank meets the secondary
(Continued next page)

Effective: Upon passage; July 1, 2007.

Ulmer, Hoy, Dvorak

(SENATE SPONSOR — GARD)

January 11, 2007, read first time and referred to Committee on Environmental Affairs.
February 15, 2007, amended, reported — Do Pass.
February 19, 2007, read second time, ordered engrossed. Engrossed.
February 20, 2007, read third time, passed. Yeas 89, nays 5.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Energy and Environmental Affairs.
March 12, 2007, amended, reported favorably — Do Pass.
March 26, 2007, read second time, amended, ordered engrossed.

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containment requirements adopted by the solid waste management board. With respect to USTs that contain alcohol blended fuels composed of greater than 15% alcohol: (1) excepts the USTs from that prohibition if they meet certain standards; and (2) provides that the USTs are subject to certain release response and detection requirements. Adds effective date provisions. Broadens permissible uses of the environmental remediation revolving loan fund. Increases from 10% to 50% the amount of money available in the fund that may be loaned by the Indiana finance authority (authority) to any one political subdivision in a state fiscal year. Allows the authority to: (1) undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties; (2) enter into agreements with political subdivisions for various purposes related to environmental investigation and remediation; and (3) provide services to and collect fees from any person in connection with financial assistance, liability clarification, and technical assistance. Requires the deposit of fee revenue in the fund. Provides governmental immunity to the authority with respect to investigation and remediation of brownfields under agreements with political subdivisions. Allows redevelopment commissions to enter into agreements with the authority and to carry out environmental investigation and remediation. Provides that no activity of a political subdivision related to investigation or remediation on a brownfield site will be considered to contribute to the contamination at the site unless caused by gross negligence or willful misconduct. Provides that a nonprofit corporation that supports a political subdivision is not liable to the state for certain environmental remediation costs and damages unless the corporation causes or contributes to the environmental contamination. Eliminates the requirement that a person that brings an environmental legal action (ELA) be a private person. Clarifies that a person may bring an ELA regardless of whether the person caused or contributed to the hazardous substance release or petroleum release that is the basis for the ELA. Establishes a statute of limitations for an ELA. Makes technical corrections.

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Reprinted
March 27, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1192

A BILL FOR AN ACT to amend the Indiana Code concerning
environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-77 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 77. (a) "Facility", for
3 purposes of IC 13-15-1-3, means a structure or an area of land used for
4 the disposal, treatment, storage, recovery, processing, or transferring of
5 solid waste, hazardous waste, or atomic radiation. The term includes
6 the following:
7 (1) A hazardous waste facility.
8 (2) An incinerator.
9 (3) A solid waste landfill.
10 (4) A transfer station.
11 (b) "Facility", for purposes of IC 13-17-7, means a single structure,
12 piece of equipment, installation, or operation that:
13 (1) emits; or
14 (2) has the potential to emit;
15 a regulated air pollutant.
16 (c) "Facility", for purposes of IC 13-18-5, means a building, a
17 structure, equipment, or other stationary item that is located on:

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(1) a single site; or

(2) contiguous or adjacent sites that are owned by, operated by, or under common control of the same person.

(d) "Facility", for purposes of IC 13-21, means a facility, a plant, a works, a system, a building, a structure, an improvement, machinery, equipment, a fixture, or other real or personal property of any nature that is to be used, occupied, or employed for the collection, storage, separation, processing, recovery, treatment, marketing, transfer, or disposal of solid waste.

(e) "Facility", for purposes of IC 13-25-2, means all buildings, equipment, structures, and other stationary items that are:

(1) located on a single site or on contiguous or adjacent sites; and

(2) owned or operated by:

(A) the same person; or

(B) any person that controls, is controlled by, or is under common control with the same person.

For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling stock, and aircraft.

(f) "Facility", for purposes of IC 13-25-4, has the meaning set forth in 42 U.S.C. 9601(9).

(g) "Facility", for purposes of IC 13-29-1, means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

SECTION 2. IC 13-11-2-142.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 142.3. "Nonprofit corporation", for purposes of this chapter and IC 13-25-4-8, refers to a nonprofit corporation:

(1) that is exempt from income taxation under 26 U.S.C. 501;

(2) for which the primary purpose, as identified in the corporation's articles of incorporation, is to assist and support a political subdivision in a matter of public concern; and

(3) that has no member affiliated with any other person that is potentially liable for response costs at a facility through any of the following:

(A) A direct or an indirect familial relationship.

(B) A contractual, corporate, or financial relationship other than a contractual, corporate, or financial relationship that is created:

(i) by the instruments by which title to the facility is conveyed or financed; or

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(ii) by a contract for the sale of goods or services.

(C) The result of a reorganization of a business entity that was potentially liable for response costs at the facility.

SECTION 3. IC 13-11-2-148 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

- (1) a water treatment plant;
- (2) a wastewater treatment plant; or
- (3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

- (1) A broker.
- (2) A person who manages the activities of a transfer station that receives municipal waste.
- (3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in subsection (e), means a person:

- (1) in control of; or
- (2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include the following:

- (1) A person who:
 - (A) does not participate in the management of an underground storage tank;
 - (B) is otherwise not engaged in the:
 - (i) production;
 - (ii) refining; and
 - (iii) marketing;
 - of regulated substances; and
 - (C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.

- (2) A person who:
 - (A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;
 - (B) does not participate in the management of the facility or business described in clause (A); and

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(C) is engaged only in:

- (i) filling;
- (ii) gauging; or
- (iii) filling and gauging;

the product level in the course of delivering fuel to an underground storage tank.

(3) A political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that:

(A) acquires ownership or control of an underground storage tank on a brownfield because of:

- (i) bankruptcy;
- (ii) foreclosure;
- (iii) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;
- (iv) abandonment;
- (v) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
- (vi) receivership;
- (vii) transfer from another political subdivision or unit of federal or state government;
- (viii) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- (ix) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest in the property because of the political subdivision's or unit's function as sovereign; or
- (x) any other means to conduct remedial actions on a brownfield; and

(B) is engaged only in activities in conjunction with:

- (i) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or
- (ii) monitoring or closure of an underground storage tank;

unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional

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1 **misconduct by the political subdivision or unit of federal or**
 2 **state government.**

3 **(f) For purposes of subsection (e)(3)(B), reckless, willful, or**
 4 **wanton misconduct constitutes gross negligence.**

5 SECTION 4. IC 13-11-2-150, AS AMENDED BY P.L.208-2005,
 6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2007]: Sec. 150. (a) "Owner", for purposes of IC 13-23
 8 (except as provided in subsections (b), ~~and~~ (c), **and (d)**) means:

9 (1) for an underground storage tank that:

10 (A) was:

11 (i) in use on November 8, 1984; or

12 (ii) brought into use after November 8, 1984;

13 for the storage, use, or dispensing of regulated substances, a
 14 person who owns the underground storage tank; or

15 (B) is:

16 (i) in use before November 8, 1984; but

17 (ii) no longer in use on November 8, 1984;

18 a person who owned the tank immediately before the
 19 discontinuation of the tank's use; or

20 (2) a person who conveyed ownership or control of the
 21 underground storage tank to a political subdivision (as defined in
 22 IC 36-1-2-13) or unit of federal or state government because of:

23 (A) bankruptcy;

24 (B) foreclosure;

25 (C) tax delinquency, including a conveyance under
 26 IC 6-1.1-24 or IC 6-1.1-25;

27 (D) abandonment;

28 (E) the exercise of eminent domain, including any purchase of
 29 property once an offer to purchase has been tendered under
 30 IC 32-24-1-5;

31 (F) receivership;

32 **(G) acquiring an area needing redevelopment (as defined**
 33 **in IC 36-7-1-3) or conducting redevelopment activities,**
 34 **specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,**
 35 **IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and**
 36 **IC 36-7-15.1-15.5;**

37 ~~(G)~~ **(H)** other circumstances in which a political subdivision
 38 or unit of federal or state government involuntarily acquired
 39 ownership or control because of the political subdivision's or
 40 unit's function as sovereign; or

41 ~~(H)~~ **(I)** any other means to conduct remedial actions on a
 42 brownfield;

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if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

~~(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign;~~

~~(8) (7) transfer from another political subdivision or unit of federal or state government; or~~

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

~~(9) (10) any other means to conduct remedial actions on a~~

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brownfield;
 unless the political subdivision or unit of federal or state government
 causes or contributes to the release or threatened release of a **regulated**
 substance, in which case the political subdivision or unit of federal or
 state government is subject to IC 13-23 in the same manner and to the
 same extent as a nongovernmental entity under IC 13-23.

(d) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

SECTION 5. IC 13-11-2-151, AS AMENDED BY P.L.208-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a petroleum facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

~~(G)~~ **(H)** other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

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1 ~~(H)~~ **(I)** any other means to conduct remedial actions on a
 2 brownfield;
 3 to a political subdivision or unit of federal or state government, a
 4 person who owned, operated, or otherwise controlled the
 5 petroleum facility immediately before title or control was
 6 conveyed.

7 (b) Subject to subsection (c), the term does not include a political
 8 subdivision or unit of federal or state government that acquired
 9 ownership or control of the facility through:

- 10 (1) bankruptcy;
 11 (2) foreclosure;
 12 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
 13 IC 6-1.1-25;
 14 (4) abandonment;
 15 (5) the exercise of eminent domain, including any purchase of
 16 property once an offer to purchase has been tendered under
 17 IC 32-24-1-5;
 18 (6) receivership;
 19 ~~(7) other circumstances in which the political subdivision or unit~~
 20 ~~of federal or state government involuntarily acquired title because~~
 21 ~~of the political subdivision's or unit's function as sovereign;~~
 22 ~~(8) (7) transfer from another political subdivision or unit of~~
 23 ~~federal or state government; or~~
 24 **(8) acquiring an area needing redevelopment (as defined in**
 25 **IC 36-7-1-3) or conducting redevelopment activities,**
 26 **specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,**
 27 **IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;**
 28 **(9) other circumstances in which the political subdivision or**
 29 **unit of federal or state government involuntarily acquired**
 30 **ownership or control because of the political subdivision's or**
 31 **unit's function as sovereign; or**
 32 ~~(9)~~ **(10)** any other means to conduct remedial actions on a
 33 brownfield.

34 (c) The term includes a political subdivision or unit of federal or
 35 state government that causes or contributes to the release or threatened
 36 release of a **regulated** substance, in which case the political
 37 subdivision or unit of federal or state government is subject to
 38 IC 13-24-1:

- 39 (1) in the same manner; and
 40 (2) to the same extent;
 41 as a nongovernmental entity under IC 13-24-1.

42 (d) The term does not include a person who:

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- (1) does not participate in the management of a petroleum facility;
- (2) is otherwise not engaged in the:
 - (A) production;
 - (B) refining; and
 - (C) marketing;
- of petroleum; and
- (3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.

(e) The term does not include a nonprofit corporation that acquired ownership or control of a facility to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-24-1 in the same manner and to the same extent as any other nongovernmental entity under IC 13-24-1.

SECTION 6. IC 13-11-2-183 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 183. "Regulated substance", for purposes of **this chapter and** IC 13-23, includes the following:

- (1) Any substance defined in section 98 of this chapter as a hazardous substance, but excluding any substance regulated as a hazardous waste under:
 - (A) Subtitle C of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6921 through 6939(a)); or
 - (B) IC 13-22-2-3.
- (2) Petroleum.
- (3) Any other substance designated by rules adopted by the solid waste management board under IC 13-23-1-2.

SECTION 7. IC 13-19-5-1, AS AMENDED BY P.L.235-2005, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The environmental remediation revolving loan program is established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property ~~by political subdivisions~~ by providing grants, loans, forgivable loans, or other financial assistance to political subdivisions to conduct any of the following activities:

- (1) Identification and acquisition of brownfields within a political subdivision as suitable candidates for redevelopment following the completion of remediation activities.
- (2) Environmental assessment of identified brownfields,

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1 **including assessment of petroleum contamination**, and other
 2 activities necessary or convenient to complete the environmental
 3 assessments.

4 (3) Remediation activities conducted on brownfields, including:

5 (A) remediation of petroleum contamination; **and**

6 (B) **other activities necessary or convenient to complete**
 7 **remediation activities conducted on brownfields, including**
 8 **clearance of real property.**

9 ~~(4) The clearance of real property under IC 36-7-14-12.2 or~~
 10 ~~IC 36-7-15.1-7 in connection with remediation activities.~~

11 ~~(5) (4) Other activities in conjunction with assessment and~~
 12 ~~remediation activities necessary or convenient to complete~~
 13 ~~remediation activities on brownfields: prepare a brownfield for~~
 14 ~~redevelopment.~~

15 SECTION 8. IC 13-19-5-2, AS AMENDED BY P.L.235-2005,
 16 SECTION 172, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The environmental
 18 remediation revolving loan fund is established for the purpose of
 19 providing money for loans and other financial assistance, including
 20 grants, to or for the benefit of political subdivisions under this chapter.
 21 The authority shall administer, hold, and manage the fund.

22 (b) Expenses of administering the fund shall be paid from money in
 23 the fund.

24 (c) The fund consists of the following:

25 (1) Appropriations made by the general assembly.

26 (2) Grants and gifts intended for deposit in the fund.

27 (3) Repayments of loans and other financial assistance, including
 28 premiums, interest, and penalties.

29 (4) Proceeds from the sale of loans and other financial assistance
 30 under section 9 of this chapter.

31 (5) Interest, premiums, gains, or other earnings on the fund.

32 (6) Money transferred from the hazardous substances response
 33 trust fund under IC 13-25-4-1(a)(9).

34 **(7) Fees collected under section 7 of this chapter.**

35 (d) The authority shall invest the money in the fund not currently
 36 needed to meet the obligations of the fund in accordance with an
 37 investment policy adopted by the authority. Interest, premiums, gains,
 38 or other earnings from these investments shall be credited to the fund.

39 (e) As an alternative to subsection (d), the authority may invest or
 40 cause to be invested all or a part of the fund in a fiduciary account with
 41 a trustee that is a financial institution. Notwithstanding any other law,
 42 any investment may be made by the trustee in accordance with at least

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one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

- (1) the authority;
- (2) a political subdivision;
- (3) the Indiana bond bank; or
- (4) any person to which the authority, the Indiana bond bank, or a political subdivision is obligated, including a trustee that is a financial institution for a grantor trust;

as provided in the trust agreement or indenture. The budget agency must approve any trust agreement or indenture before its execution.

SECTION 9. IC 13-19-5-3, AS AMENDED BY P.L.235-2005, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** The authority shall do the following under this chapter:

- (1) Be responsible for the management of all aspects of the program.
- (2) Prepare and provide program information.
- (3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.
- (4) Sign each financial assistance agreement.
- (5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.
- (6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.
- (7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:
 - (A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and
 - (B) otherwise comply with terms of the financial assistance agreement.
- (8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:
 - (A) environmental assessment of potential brownfield properties;
 - (B) proposed remediation; and
 - (C) remediation activities conducted on brownfield properties.
- (9) Inspect or cause to be inspected remediation activities conducted under this chapter.
- (10) Act as a liaison ~~with the department~~ to the United States

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Environmental Protection Agency regarding the program.

(11) Be a point of contact for political subdivisions concerning questions about the program.

(12) Enter into memoranda of understanding, as necessary, with the department and the budget agency concerning the administration and management of the fund and the program.

(b) The authority may do the following under this chapter:

(1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.

(2) Enter into agreements with political subdivisions to manage any of the following conducted on brownfield properties:

(A) Environmental assessment activities.

(B) Environmental remediation activities.

(c) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more insurers to provide insurance products as described in subsection (b)(1).

(d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(e) For purposes of subsection (d), reckless, willful, or wanton misconduct constitutes gross negligence.

(f) The authority is entitled to the same governmental immunity afforded a political subdivision under IC 34-13-3-3(23) for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield under an agreement under subsection (b)(2).

SECTION 10. IC 13-19-5-7, AS AMENDED BY P.L.235-2005, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The authority may provide services to a ~~political subdivision~~ **person (as defined in IC 13-11-2-158(a))** in connection with ~~a loan or other financial assistance, including advisory and other services;~~ **technical assistance, and liability clarification,** and may ~~charge~~ **assess and collect** a fee for:

(1) services provided to offset the costs of providing the

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1 **services; and**

2 (2) costs and services incurred in the review or consideration of
3 an application for a proposed loan or other financial assistance to
4 or for the benefit of a political subdivision under this chapter,
5 regardless of whether the application is approved or rejected.

6 (b) A political subdivision may pay fees charged under this section.

7 **(c) The authority shall adopt guidelines for the assessment and**
8 **collection of fees under this section.**

9 **(d) Fees collected under this section shall be deposited in the**
10 **fund.**

11 SECTION 11. IC 13-19-5-8, AS AMENDED BY P.L.235-2005,
12 SECTION 176, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2007]: Sec. 8. The authority may use a priority
14 ranking system in making loans and providing other financial
15 assistance under this chapter based on the following:

16 (1) Socioeconomic distress in an area, as determined by the
17 poverty level and unemployment rate in the area.

18 (2) The technical evaluation ~~by the department~~ under section
19 3(8)(A) and 3(8)(B) of this chapter.

20 (3) Other factors determined by the authority, including the
21 following:

22 (A) The number and quality of jobs that would be generated by
23 a project.

24 (B) Housing, recreational, and educational needs of
25 communities.

26 (C) Any other factors the authority determines will assist in the
27 implementation of this chapter.

28 SECTION 12. IC 13-19-5-9, AS AMENDED BY P.L.235-2005,
29 SECTION 177, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A loan or other financial
31 assistance must be used for at least one (1) of the purposes under
32 section 1 of this chapter and may be used for any of the following
33 purposes:

34 (1) To:

35 (A) establish guaranties, reserves, or sinking funds, including
36 guaranties, reserves, or sinking funds to secure and pay, in
37 whole or in part, loans or other financial assistance made from
38 sources other than the fund (including financial institutions)
39 for a purpose permitted by this chapter; or

40 (B) provide interest subsidies.

41 (2) To pay financing charges, including interest on the loan or
42 other financial assistance during remediation and for a reasonable

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period after the completion of remediation.

(3) To pay consultant, advisory, and legal fees, and any other costs or expenses resulting from:

(A) the assessment, planning, or remediation of a brownfield;

or

(B) the loan or other financial assistance.

(b) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(c) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular political subdivision is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different political subdivisions or for different loans or other financial assistance to the same political subdivision.

(d) Not more than ~~ten~~ **fifty** percent ~~(10%)~~ **(50%)** of the money available in the fund during a **state fiscal** year may be loaned or otherwise provided to any one (1) political subdivision **during that fiscal year.**

(e) Before a political subdivision may receive a loan or other financial assistance, including grants, from the fund, a political subdivision must submit the following:

(1) Documentation of community and neighborhood comment concerning the use of a brownfield on which remediation activities will be undertaken after remediation activities are completed.

(2) A plan for repayment of the loan or other financial assistance, if applicable.

(3) An approving opinion of a nationally recognized bond counsel if required by the authority.

(4) A summary of the environmental objectives of the proposed project.

(f) A political subdivision that receives a loan or other financial assistance from the fund shall enter into a financial assistance

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1 agreement. A financial assistance agreement is a valid, binding, and
2 enforceable agreement of the political subdivision.

3 (g) The authority may sell or assign:

4 (1) loans or evidence of other financial assistance; and

5 (2) other obligations of political subdivisions evidencing the loans
6 or other financial assistance from the fund;

7 at any price and on terms acceptable to the authority. Proceeds of sales
8 or assignments under this subsection shall be deposited in the fund. A
9 sale or an assignment under this subsection does not create a liability
10 or an indebtedness of the state or the authority except, in the case of the
11 authority, strictly in accordance with the sale or assignment terms.

12 (h) The authority may pledge loans or evidences of other financial
13 assistance and other obligations of political subdivisions evidencing the
14 loans or other financial assistance from the fund to secure other loans
15 or financial assistance from the fund to or for the benefit of political
16 subdivisions. The terms of a pledge under this subsection must be
17 approved by the budget agency. Notwithstanding any other law, a
18 pledge of property made by the authority and approved by the budget
19 agency under this subsection is binding from the time the pledge is
20 made. Revenues, other money, or other property pledged and then
21 received are immediately subject to the lien of the pledge without any
22 further act. The lien of a pledge is binding against all parties having
23 claims of any kind in tort, contract, or otherwise against the authority,
24 a trustee, or the fund, regardless of whether the parties have notice of
25 a lien. A resolution, an indenture, or other instrument by which a
26 pledge is created is not required to be filed or recorded, except in the
27 records of the authority. An action taken to enforce a pledge under this
28 subsection and to realize the benefits of the pledge is limited to the
29 property pledged. A pledge under this subsection does not create a
30 liability or an indebtedness of the state or the authority except, in the
31 case of the authority, strictly in accordance with the pledge terms.

32 SECTION 13. IC 13-23-5-1 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to
34 section 2 of this chapter, **and except as provided in subsection (b)**, an
35 underground storage tank, whether of single or double wall
36 construction, may not be installed before the effective date of the rules
37 adopted under IC 13-23-1-2 for the purpose of storing regulated
38 substances unless:

39 (1) the tank will prevent releases due to corrosion or structural
40 failure for the operational life of the tank;

41 (2) the tank is:

42 (A) cathodically protected against corrosion;

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- 1 (B) constructed of noncorrosive material;
 2 (C) steel clad with a noncorrosive material; or
 3 (D) designed to prevent the release or threatened release of
 4 any stored substance; ~~and~~
 5 (3) the material used in the construction or lining of the tank is
 6 compatible with the substance to be stored; **and**
 7 **(4) after July 1, 2007, all newly installed or replaced piping**
 8 **connected to the tank meets the secondary containment**
 9 **requirements adopted by the board.**
 10 **(b) An underground storage tank system that contains alcohol**
 11 **blended fuels composed of greater than fifteen percent (15%)**
 12 **alcohol is a petroleum UST system (as defined in 329 IAC 9-1-36 as**
 13 **in effect January 1, 2007) and may be installed during the period**
 14 **referred to in subsection (a) if the system is otherwise in**
 15 **compliance with rules adopted by the board concerning technical**
 16 **and safety requirements relating to the physical characteristics of**
 17 **underground petroleum storage tanks and ancillary equipment,**
 18 **including dispensing equipment, used in the storing or dispensing**
 19 **of alcohol blended fuels for purposes of:**
 20 **(1) IC 13-23-8-3(1)(A); and**
 21 **(2) all other provisions of this article.**
 22 **(c) Owners and operators of underground storage tank systems**
 23 **that store, carry, or dispense alcohol blended fuels composed of**
 24 **greater than fifteen percent (15%) alcohol and that comply with**
 25 **subsection (b) are considered to meet the standards of:**
 26 **(1) compatibility under subsection (a)(3); and**
 27 **(2) compliance for purposes of:**
 28 **(A) IC 13-23-8-3; and**
 29 **(B) all other provisions of this article.**
 30 **SECTION 14. IC 13-23-8-3 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. For the purposes of**
 32 **section 2 of this chapter, the following amounts shall be used:**
 33 **(1) If the underground petroleum storage tank that is involved in**
 34 **the occurrence for which claims are made:**
 35 **(A) is not in compliance with rules adopted by the board**
 36 **concerning technical and safety requirements relating to the**
 37 **physical characteristics of underground petroleum storage**
 38 **tanks before the date the tank is required to be in compliance**
 39 **with the requirements; and**
 40 **(B) is in compliance on a date required under the requirements**
 41 **described under section 4 of this chapter at the time a release**
 42 **was discovered;**

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the amount is thirty-five thousand dollars (\$35,000).

(2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; ~~and~~

(B) is not a double walled underground petroleum storage tank; ~~with and~~

(C) has piping that ~~has~~ **does not have** secondary containment; the amount is thirty thousand dollars (\$30,000).

(3) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

(C) has piping that has secondary containment; the amount is twenty-five thousand dollars (\$25,000).

(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment; the amount is twenty-five thousand dollars (\$25,000).

~~(4)~~ **(5) If the underground petroleum storage tank that was involved in the occurrence for which claims are made:**

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; ~~and~~

(B) is a double walled underground petroleum storage tank;

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1 ~~with and~~

2 (C) has piping that has secondary containment;

3 the amount is ~~twenty-five~~ twenty thousand dollars (~~\$25,000~~);

4 (\$20,000).

5 SECTION 15. IC 13-23-13-16 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) A political subdivision or
8 unit of federal or state government that acquired ownership or
9 control of an underground storage tank on a brownfield by any of
10 the means listed in IC 13-11-2-150(c) and IC 13-11-2-151(b) may
11 undertake any activity in conjunction with:

12 (1) investigation or remediation of hazardous substances,
13 petroleum, and other pollutants associated with a brownfield,
14 including complying with land use restrictions and
15 institutional controls; or

16 (2) monitoring or closure of an underground storage tank;
17 without being considered as contributing to the existing release or
18 threatened release of a regulated substance on, in, or at the
19 brownfield unless existing contamination on the brownfield is
20 exacerbated due to gross negligence or intentional misconduct by
21 the political subdivision or unit of federal or state government.

22 (b) For purposes of subsection (a), reckless, willful, or wanton
23 misconduct constitutes gross negligence.

24 SECTION 16. IC 13-23-16 IS ADDED TO THE INDIANA CODE
25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2007]:

27 Chapter 16. Notice of Release, Spill, or Overfill

28 Sec. 1. A citation in this chapter to a rule refers to the rule as in
29 effect on January 1, 2007.

30 Sec. 2. If the department receives a report concerning:

31 (1) the discovery of released regulated substances at an
32 underground storage tank site or in the surrounding area
33 under 329 IAC 9-4-1(1); or

34 (2) a spill or overfill under 329 IAC 9-4-4(a);

35 the department shall, not more than seven (7) days after receiving
36 the report, provide notice of the release, spill, or overfill to the
37 county health officer of each county in which the release, spill, or
38 overfill occurred.

39 Sec. 3. Not more than seven (7) days after receiving a notice
40 from the department under section 2 of this chapter, a county
41 health officer shall do the following:

42 (1) Publish notice of the release, spill, or overfill in a

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newspaper of general circulation in the county health officer's county.

(2) Provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate.

Sec. 4. Notice provided by a county health officer under section 3 of this chapter must include:

(1) the same information reported to the department under 329 IAC 9-4-1(1) or 329 IAC 9-4-4(a); and

(2) any other information the county health officer considers necessary or appropriate.

SECTION 23. IC 13-25-4-8, AS AMENDED BY P.L.1-2006, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Except as provided in subsection (b), (c), or (d), a person that is liable under Section 107(a) of CERCLA (42 U.S.C. 9607(a)) for:

(1) the costs of removal or remedial action incurred by the commissioner consistent with the national contingency plan;

(2) the costs of any health assessment or health effects study carried out by or on behalf of the commissioner under Section 104(i) of CERCLA (42 U.S.C. 9604(i)); or

(3) damages for:

(A) injury to;

(B) destruction of; or

(C) loss of;

natural resources of Indiana;

is liable, in the same manner and to the same extent, to the state under this section.

(b) The exceptions provided by Sections 107(b), 107(q), and 107(r) of CERCLA (42 U.S.C. 9607(b), 42 U.S.C. 9607(q), and 42 U.S.C. 9607(r)) to liability otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise imposed under subsection (a).

(c) Notwithstanding any liability imposed by the environmental management laws, a lender, a secured or unsecured creditor, or a fiduciary is not liable under the environmental management laws, in connection with the release or threatened release of a hazardous substance from a facility unless the lender, the fiduciary, or creditor has participated in the management of the hazardous substance at the facility.

(d) Notwithstanding any liability imposed by the environmental management laws, the liability of a fiduciary for a release or threatened release of a hazardous substance from a facility that is held by the

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1 fiduciary in its fiduciary capacity may be satisfied only from the assets
 2 held by the fiduciary in the same estate or trust as the facility that gives
 3 rise to the liability.

4 (e) Except as provided in subsection (g), a political subdivision (as
 5 defined in IC 36-1-2-13) or unit of federal or state government is not
 6 liable to the state under this section for costs or damages associated
 7 with the presence of a hazardous substance on, in, or at a property in
 8 which the political subdivision or unit of federal or state government
 9 acquired an interest ~~in the property~~ because of:

10 (1) bankruptcy;

11 (2) foreclosure;

12 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
 13 IC 6-1.1-25;

14 (4) abandonment;

15 (5) the exercise of eminent domain, including any purchase of
 16 property once an offer to purchase has been tendered under
 17 IC 32-24-1-5;

18 (6) receivership;

19 ~~(7) other circumstances in which the political subdivision or unit~~
 20 ~~of federal or state government involuntarily acquired an interest~~
 21 ~~in the property because of the political subdivision's or unit's~~
 22 ~~function as sovereign;~~

23 ~~(8) (7) transfer from another political subdivision or unit of~~
 24 ~~federal or state government; or~~

25 **(8) acquiring an area needing redevelopment (as defined in**
 26 **IC 36-7-1-3) or conducting redevelopment activities,**
 27 **specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,**
 28 **IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;**

29 **(9) other circumstances in which the political subdivision or**
 30 **unit of federal or state government involuntarily acquired**
 31 **ownership or control because of the political subdivision's or**
 32 **unit's function as sovereign; or**

33 ~~(9) (10) any other means to conduct remedial actions on a~~
 34 ~~brownfield.~~

35 (f) If a transfer of an interest in property as described in subsection
 36 (e) occurs, a person who owned, operated, or otherwise controlled the
 37 property immediately before the political subdivision or unit of federal
 38 or state government acquired the interest in the property remains liable
 39 under this section:

40 (1) in the same manner; and

41 (2) to the same extent;

42 as the person was liable immediately before the person's interest in the

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property was acquired by the political subdivision or unit of federal or state government.

(g) Notwithstanding subsection (e), a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under this section.

(h) Except as provided in subsection (i), a nonprofit corporation is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the nonprofit corporation acquired an interest to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation.

(i) Notwithstanding subsection (h), a nonprofit corporation that causes or contributes to a release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as any other nongovernmental entity under this section.

(j) A political subdivision or unit of federal or state government that establishes an exemption or defense under subsection (b) or (e) may undertake any activity related to:

(1) investigation, removal, or remedial action on a brownfield, including complying with land use restrictions and institutional controls; or

(2) monitoring or closure of an underground storage tank; without being considered as contributing to the existing release or threatened release of hazardous substances on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(k) For purposes of subsection (j), reckless, willful, or wanton misconduct constitutes gross negligence.

SECTION 18. IC 13-30-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to actions brought by the state or a ~~private~~ person. However, this chapter does not apply to an action brought by the state if the action arises from a site that:

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- (1) is listed on the National Priorities List for hazardous substance response sites (40 CFR 300 et seq.);
- (2) scores at least twenty-five (25) under the Indiana scoring model under 329 IAC 7; or
- (3) is deemed by the commissioner to pose an imminent threat to human health or the environment.

SECTION 19. IC 13-30-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person may, ~~bring an environmental legal action against a~~ **regardless of whether the person who** caused or contributed to the release of a hazardous substance or petroleum into the surface or subsurface soil or groundwater that poses a risk to human health and the environment, ~~bring an environmental legal action against a person that caused or contributed to the release~~ to recover reasonable costs of a removal or remedial action involving the hazardous substances or petroleum.

SECTION 20. IC 13-30-9-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. IC 34-11-2-11.5 applies to an environmental legal action brought under section 2 of this chapter.**

SECTION 21. IC 34-11-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **Except as provided in section 11.5 of this chapter,** the following actions must be commenced within six (6) years after the cause of action accrues:

- (1) Actions on accounts and contracts not in writing.
- (2) Actions for use, rents, and profits of real property.
- (3) Actions for injuries to property other than personal property, damages for detention of personal property and for recovering possession of personal property.
- (4) Actions for relief against frauds.

SECTION 22. IC 34-11-2-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) Subject to subsection (c), a person that discovered before February 28, 1998, the presence of a hazardous substance or petroleum in soil or groundwater that is the basis for an action under IC 13-30-9-2 must bring the action before February 28, 2008.**

(b) If subsection (a) does not apply, subject to subsection (c), a person must bring an action under IC 13-30-9-2 within ten (10) years after the date the person discovers the presence of a hazardous substance or petroleum in soil or groundwater that is the basis for the action.

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(c) This section does not permit a person to revive an action brought under IC 13-30-9-2 that was finally adjudicated against the person.

SECTION 23. [EFFECTIVE UPON PASSAGE] (a) IC 34-11-2-11.5, as added by this act:

(1) applies prospectively from the effective date of this act; and

(2) subject to IC 34-11-2-11.5(c), as added by this act, and notwithstanding IC 34-11-2-7, as in effect before the effective date of this act, allows a person to maintain an environmental legal action brought before the effective date of this act.

(b) IC 13-30-9-2, as amended by this act, applies:

(1) prospectively from the effective date of this act; and

(2) to an action that may be maintained under subsection (a)(2).

SECTION 24. IC 36-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies to the following:

(1) The state.

(2) All political subdivisions.

(3) All state agencies.

(4) Any of the following created by state law:

(A) Public instrumentalities.

(B) Public corporate bodies.

~~(4)~~ (5) Another state to the extent authorized by the law of that state.

~~(5)~~ (6) Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.

~~(6)~~ (7) Agencies of the federal government, to the extent authorized by federal laws.

SECTION 25. IC 36-1-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) If an agreement under section 3 of this chapter:

(1) involves as parties:

(A) only Indiana political subdivisions; or

(B) an Indiana political subdivision and:

(i) a public instrumentality; or

(ii) a public corporate body;

created by state law;

(2) is approved by the fiscal body of each party that is an Indiana political subdivision either before or after it the agreement is entered into by the ~~executives~~ executive of the

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1 ~~parties;~~ **party;** and

2 (3) delegates to the treasurer or disbursing officer of one (1) of the
3 parties **that is an Indiana political subdivision** the duty to
4 receive, disburse, and account for all monies of the joint
5 undertaking;

6 then the approval of the attorney general is not required.

7 (b) If subsection (a) does not apply, an agreement under section 3
8 of this chapter must be submitted to the attorney general for his
9 approval. The attorney general shall approve the agreement unless ~~he~~
10 **the attorney general** finds that it does not comply with the statutes, in
11 which case ~~he~~ **the attorney general** shall detail in writing for the
12 ~~executives of the~~ parties the specific respects in which the agreement
13 does not comply. If the attorney general fails to disapprove the
14 agreement within sixty (60) days after it is submitted to ~~him~~, **the**
15 **attorney general**, it is considered approved.

16 SECTION 26. IC 36-1-7-15, AS AMENDED BY P.L.203-2005,
17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2007]: Sec. 15. (a) As used in this section, "economic
19 development entity" means **any of the following:**

20 (1) A department of redevelopment organized under IC 36-7-14.

21 (2) A department of metropolitan development under
22 IC 36-7-15.1.

23 (3) A port authority organized under IC 8-10-5. ~~or~~

24 (4) An airport authority organized under IC 8-22-3.

25 (5) **The Indiana finance authority.**

26 (b) Notwithstanding section 2 of this chapter, two (2) or more
27 economic development entities may enter into a written agreement
28 under section 3 of this chapter if the agreement is approved by each
29 entity's governing body.

30 (c) A party to an agreement under this section may do one (1) or
31 more of the following:

32 (1) Except as provided in subsection (d), grant one (1) or more of
33 its powers to another party to the agreement.

34 (2) Exercise any power granted to it by a party to the agreement.

35 (3) Pledge any of its revenues, including taxes or allocated taxes
36 under IC 36-7-14, IC 36-7-15.1, or IC 8-22-3.5, to the bonds or
37 lease rental obligations of another party to the agreement under
38 IC 5-1-14-4.

39 (d) An economic development entity may not grant to another entity
40 the power to tax or to establish an allocation area under IC 8-22-3.5,
41 IC 36-7-14-39, or IC 36-7-15.1.

42 (e) An agreement under this section does not have to comply with

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section 3(a)(5) or 4 of this chapter.

(f) An action to challenge the validity of an agreement under this section must be brought within thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 27. IC 36-7-1-3, AS AMENDED BY P.L.185-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. "Area needing redevelopment" means an area in which normal development and occupancy are undesirable or impossible because of **any of the following**:

- (1) Lack of development.
- (2) Cessation of growth.
- (3) Deteriorated or deteriorating improvements.
- (4) Environmental contamination.**
- ~~(4)~~ **(5) Character of occupancy.**
- ~~(5)~~ **(6) Age.**
- ~~(6)~~ **(7) Obsolescence.**
- ~~(7)~~ **(8) Substandard buildings. or**
- ~~(8)~~ **(9) Other factors that impair values or prevent a normal use or development of property.**

SECTION 28. IC 36-7-1-18, AS AMENDED BY P.L.185-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. "Redevelopment" includes the following activities:

- (1) Acquiring real property in areas needing redevelopment.
- (2) Replatting and determining the proper use of real property acquired.
- (3) Opening, closing, relocating, widening, and improving public ways.
- (4) Relocating, constructing, and improving sewers, utility services, offstreet parking facilities, and levees.
- (5) Laying out and constructing necessary public improvements, including parks, playgrounds, and other recreational facilities.
- (6) Restricting the use of real property acquired according to law.
- (7) Repairing and maintaining buildings acquired, if demolition of those buildings is not considered necessary to carry out the redevelopment plan.
- (8) Rehabilitating real or personal property ~~whether or not acquired~~, to carry out the redevelopment or urban renewal plan, **regardless of whether the real or personal property is acquired by the unit.**
- (9) Investigating and remediating environmental**

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contamination on real property to carry out the redevelopment or urban renewal plan, regardless of whether the real property is acquired by the unit.

~~(9)~~ (10) Disposing of property acquired on the terms and conditions and for the uses and purposes that best serve the interests of the units served by the redevelopment commission.

~~(10)~~ (11) Making payments required or authorized by IC 8-23-17.

~~(11)~~ (12) Performing all acts incident to the statutory powers and duties of a redevelopment commission.

SECTION 29. IC 36-7-1-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Remediation" has the meaning set forth in IC 13-11-2-186.**

SECTION 30. IC 36-7-14-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) The **assessment**, planning, replanning, **remediation**, development, and redevelopment of economic development areas:

(1) are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:

~~(1)~~ (A) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and

~~(2)~~ (B) the costs of these projects;

~~(b) The planning, replanning, development, and redevelopment of economic development areas~~

(2) will:

~~(1)~~ (A) benefit the public health, safety, morals, and welfare;

~~(2)~~ (B) increase the economic well-being of the unit and the state; and

~~(3)~~ (C) serve to protect and increase property values in the unit and the state;

~~(c) The planning, replanning, development, and redevelopment of economic development areas under this chapter~~

(3) are public uses and purposes for which public money may be spent and private property may be acquired.

~~(d) (b)~~ This section and sections 41 and 43 of this chapter shall be liberally construed to carry out the purposes of this section.

SECTION 31. IC 36-7-14-11, AS AMENDED BY P.L.185-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. The redevelopment commission shall:

(1) investigate, study, and survey areas needing redevelopment within the corporate boundaries of the unit;

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- (2) investigate, study, determine, and, to the extent possible, combat the causes of areas needing redevelopment;
- (3) promote the use of land in the manner that best serves the interests of the unit and its inhabitants;
- (4) cooperate:

(A) with the departments and agencies of:

- (i) the unit; and ~~of~~
- (ii) other governmental entities; **and**

(B) with:

- (i) **public instrumentalities; and**
- (ii) **public corporate bodies;**

created by state law;

in the manner that best serves the purposes of this chapter;

(5) make findings and reports on their activities under this section, and keep those reports open to inspection by the public at the offices of the department;

(6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and

(7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the unit and its inhabitants.

SECTION 32. IC 36-7-14-12.2, AS AMENDED BY P.L.185-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.2. (a) The redevelopment commission may **do the following:**

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the unit and its inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real

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property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

~~(5)~~ (7) Repair and maintain structures acquired for redevelopment purposes.

~~(6)~~ (8) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

~~(7)~~ (9) Survey or examine any land to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes and to determine the value of that land.

~~(8)~~ (10) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commissioners.

~~(9)~~ (11) Institute or defend in the name of the unit any civil action.

~~(10)~~ (12) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the department of redevelopment.

~~(11)~~ (13) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit in the manner prescribed by section 20 of this chapter.

~~(12)~~ (14) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

~~(13)~~ (15) Appoint clerks, guards, laborers, and other employees the commission considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

~~(14)~~ (16) Prescribe the duties and regulate the compensation of

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employees of the department of redevelopment.

~~(15)~~ **(17)** Provide a pension and retirement system for employees of the department of redevelopment by using the Indiana public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

~~(16)~~ **(18)** Discharge and appoint successors to employees of the department of redevelopment subject to subdivision ~~(13)~~; **(15)**.

~~(17)~~ **(19)** Rent offices for use of the department of redevelopment, or accept the use of offices furnished by the unit.

~~(18)~~ **(20)** Equip the offices of the department of redevelopment with the necessary furniture, furnishings, equipment, records, and supplies.

~~(19)~~ **(21)** Expend, on behalf of the special taxing district, all or any part of the money of the special taxing district.

~~(20)~~ **(22)** Contract for the construction of:

(A) local public improvements (as defined in IC 36-7-14.5-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the corporate boundaries of the unit; or

(B) any structure that enhances development or economic development.

~~(21)~~ **(23)** Contract for the construction, extension, or improvement of pedestrian skyways.

~~(22)~~ **(24)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

~~(23)~~ **(25)** Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to individuals and families whose income is at or below the unit's median income for individuals and families, respectively.

~~(24)~~ **(26)** Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision ~~(23)~~; **(25)**; or

(B) construct, rehabilitate, or repair commercial property within the district. ~~and~~

~~(25)~~ **(27)** Require as a condition of financial assistance to the owner of a multiple unit residential structure that any of the units leased by the owner must be leased:

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(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the unit's median income for families; and

(C) at an affordable rate.

(b) Conditions imposed by the commission under subsection ~~(a)(25)~~ **(a)(27)** remain in force throughout the period determined under subsection ~~(a)(25)(A); (a)(27)(A)~~, even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(c) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(d) All powers that may be exercised under this chapter by the redevelopment commission may also be exercised by the redevelopment commission in carrying out its duties and purposes under IC 36-7-14.5.

SECTION 33. IC 36-7-14-12.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.3. IC 5-16-7 applies to:

- (1) a person that enters into a contract with a redevelopment commission to perform construction work referred to in section 12.2(a)(4), ~~12.2(a)(6); 12.2(a)(20); or 12.2(a)(21);~~ **12.2(a)(7), 12.2(a)(22), or 12.2(a)(23)** of this chapter; and

- (2) a subcontractor of a person described in subdivision (1);
- with respect to the construction work referred to in subdivision (1).

SECTION 34. IC 36-7-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) A county may contract with a city within the county to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the city.

(b) A city may contract with the county in which it is located to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the county.

(c) A city or county may contract with:

- (1) a public instrumentality; or**
- (2) a public corporate body;**

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1 **created by state law to have the powers listed in section 12.2(a)(4)**
 2 **through 12.2(a)(7) of this chapter performed by the public**
 3 **instrumentality or public corporate body.**

4 ~~(c)~~ **(d)** A contract made under this section must be for a stated and
 5 limited period and may be renewed.

6 ~~(d)~~ **(e)** Whenever a city official acts under a contract made under
 7 this section, or whenever permits or other writings are used under such
 8 a contract, the action or use must be in the name of the county
 9 redevelopment commission.

10 SECTION 35. IC 36-7-14-15, AS AMENDED BY P.L.185-2005,
 11 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2007]: Sec. 15. (a) Whenever the redevelopment commission
 13 finds that:

14 (1) an area in the territory under their jurisdiction is an area
 15 needing redevelopment;

16 (2) the conditions described in IC 36-7-1-3 cannot be corrected in
 17 the area by regulatory processes or the ordinary operations of
 18 private enterprise without resort to this chapter; and

19 (3) the public health and welfare will be benefited by the
 20 acquisition and redevelopment of the area under this chapter;

21 the commission shall cause to be prepared the data described in
 22 subsection (b).

23 (b) After making a finding under subsection (a), the commission
 24 shall cause to be prepared:

25 (1) maps and plats showing:

26 (A) the boundaries of the area needing redevelopment, the
 27 location of the various parcels of property, streets, alleys, and
 28 other features affecting the acquisition, clearance,
 29 **remediation**, replatting, replanning, rezoning, or
 30 redevelopment of the area, indicating any parcels of property
 31 to be excluded from the acquisition; and

32 (B) the parts of the area acquired that are to be devoted to
 33 public ways, levees, sewerage, parks, playgrounds, and other
 34 public purposes under the redevelopment plan;

35 (2) lists of the owners of the various parcels of property proposed
 36 to be acquired; and

37 (3) an estimate of the cost of acquisition and redevelopment.

38 (c) After completion of the data required by subsection (b), the
 39 redevelopment commission shall adopt a resolution declaring that:

40 (1) the area needing redevelopment is a menace to the social and
 41 economic interest of the unit and its inhabitants;

42 (2) it will be of public utility and benefit to acquire the area and

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1 redevelop it under this chapter; and

2 (3) the area is designated as a redevelopment project area for
3 purposes of this chapter.

4 The resolution must state the general boundaries of the redevelopment
5 project area, and that the department of redevelopment proposes to
6 acquire all of the interests in the land within the boundaries, with
7 certain designated exceptions, if there are any.

8 (d) For the purpose of adopting a resolution under subsection (c), it
9 is sufficient to describe the boundaries of the redevelopment project
10 area by its location in relation to public ways or streams, or otherwise,
11 as determined by the commissioners. Property excepted from the
12 acquisition may be described by street numbers or location.

13 SECTION 36. IC 36-7-14-21 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) The
15 redevelopment commission may proceed with the clearing and
16 replanning of the area described in the resolution before the acquisition
17 of all of that area. It may also proceed with the repair and maintenance
18 of buildings that have been acquired and are not to be cleared, **and**
19 **with the following with respect to environmental contamination:**

20 (1) Investigation.

21 (2) Remediation.

22 ~~This clearance, repair, and maintenance~~ **The redevelopment**
23 **commission may be carried carry out activities under this subsection**
24 **by labor employed directly by the commission or by contract. Contracts**
25 **for clearance may provide that the contractor is entitled to retain and**
26 **dispose of salvaged material, as a part of the contract price or on the**
27 **basis of stated prices for the amounts of the various materials actually**
28 **salvaged.**

29 (b) All contracts for material or labor under this section shall be let
30 under IC 36-1.

31 (c) In the planning and rezoning of the real property acquired, the
32 opening, closing, relocation, and improvement of public ways, and the
33 construction, relocation, and improvement of levees, sewers, parking
34 facilities, and utility services, the redevelopment commission shall
35 proceed in the same manner as private owners of the property. It may
36 negotiate with the proper officers and agencies of the unit to secure the
37 proper orders, approvals, and consents.

38 (d) Any construction work required in connection with
39 improvements in the area described in the resolution may be carried out
40 by:

41 (1) the appropriate municipal or county department or agency; or

42 (2) the department of redevelopment, if:

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(A) all plans, specifications, and drawings are approved by the appropriate department or agency; and

(B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the department of redevelopment.

(e) The redevelopment commission may pay any charges or assessments made on account of orders, approval, consents, and construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

(1) by special waiver filed with the municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property; and

(2) cause any assessments to be spread on a different basis than that provided by statute.

(f) None of the real property acquired under this chapter may be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the redevelopment commission has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

SECTION 37. IC 36-7-14-30, AS AMENDED BY P.L.185-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. In addition to its authority under any other section of this chapter, the redevelopment commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination and the prevention of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes and is related to a redevelopment project, or any rehabilitation or conservation work, or any combination of such an undertaking or work, such as **the following**:

(1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.

(2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary **for the following**:

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

(C) To do any of the following:

(i) Lessen density.

(ii) Reduce traffic hazards.

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(iii) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.

(iv) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3. ~~or~~

(v) Provide land for needed public facilities.

(3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project. ~~and~~

(4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

SECTION 38. IC 36-7-14-32, AS AMENDED BY P.L.185-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the redevelopment commission, municipal, county, public, and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the redevelopment commission may also:

(1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

(3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;

(4) make preliminary surveys, **including environmental assessments**, to determine if the undertaking and carrying out of an urban renewal project are feasible;

(5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;

(6) make relocation payments to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by

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the federal government; and

(7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

SECTION 39. IC 36-7-14-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) Any:

(1) political subdivision; ~~or~~

(2) other governmental entity;

(3) public instrumentality created by state law; or

(4) public body created by state law;

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The redevelopment commission may delegate to:

(1) an executive department of a unit or county; ~~or to~~

(2) another governmental entity;

(3) a public instrumentality created by state law; or

(4) a public body created by state law;

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department, ~~or~~ entity, **public instrumentality, or public body** is authorized to act. The department, ~~or~~ entity, **public instrumentality, or public body** may then carry out or perform those powers or functions for the commission.

(c) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the redevelopment commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

SECTION 40. IC 36-7-15.1-2, AS AMENDED BY P.L.185-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The **assessment**, clearance, **remediation**, replanning, and redevelopment of areas needing redevelopment are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise, due to the necessity for the exercise of the power of eminent domain, the necessity for requiring the proper use of the land so as to best serve the interests

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of the county and its citizens, and the cost of these projects.

(b) The conditions that exist in areas needing redevelopment are beyond remedy and control by regulatory processes because of the obsolescence and deteriorated conditions of improvements, **environmental contamination**, faulty land use, shifting of population, and technological and social changes.

(c) The **assessment**, clearing, **remediation**, replanning, and redevelopment of areas needing redevelopment will benefit the health, safety, morals, and welfare and will serve to protect and increase property values in the county and the state.

(d) The **assessment**, clearance, **remediation**, replanning, and redevelopment of areas needing redevelopment under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(e) This chapter shall be liberally construed to carry out the purposes of this section.

SECTION 41. IC 36-7-15.1-6, AS AMENDED BY P.L.185-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The commission shall:

(1) investigate, study, and survey areas needing redevelopment within the redevelopment district;

(2) investigate, study, determine, and to the extent possible combat the causes of the conditions described in IC 36-7-1-3;

(3) promote the use of land in the manner that best serves the interests of the consolidated city and its inhabitants, both from the standpoint of human needs and economic values;

(4) cooperate:

(A) with the departments and agencies of:

(i) the city; and ~~of~~

(ii) other governmental entities; **and**

(B) with:

(i) **public instrumentalities; and**

(ii) **public bodies;**

created by state law;

in the manner that best serves the purposes of this chapter;

(5) make findings and reports on its activities under this section, and keep those reports open to inspection by the public at the offices of the department;

(6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and

(7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the

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city and its inhabitants.

SECTION 42. IC 36-7-15.1-7, AS AMENDED BY P.L.185-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) In carrying out its duties and purposes under this chapter, the commission may do the following:

(1) Acquire by purchase, exchange, gift, grant, lease, or condemnation, or any combination of methods, any real or personal property or interest in property needed for the redevelopment of areas needing redevelopment that are located within the redevelopment district.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, invest in, or otherwise dispose of, through any combination of methods, property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the city and its inhabitants.

(3) Acquire from and sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the city, or to any other governmental agency, for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes, on any terms that may be agreed upon.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

~~(5)~~ (7) Repair and maintain structures acquired or to be acquired for redevelopment purposes.

~~(6)~~ (8) Enter upon, survey, or examine any land, to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes, and determine the value of that land.

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~~(7)~~ **(9)** Appear before any other department or agency of the city, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commission.

~~(8)~~ **(10)** Exercise the power of eminent domain in the name of the city, within the redevelopment district, in the manner prescribed by this chapter.

~~(9)~~ **(11)** Establish a uniform fee schedule whenever appropriate for the performance of governmental assistance, or for providing materials and supplies to private persons in project or program related activities.

~~(10)~~ **(12)** Expend, on behalf of the redevelopment district, all or any part of the money available for the purposes of this chapter.

~~(11)~~ **(13)** Contract for the construction, extension, or improvement of pedestrian skyways.

~~(12)~~ **(14)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

~~(13)~~ **(15)** Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

~~(14)~~ **(16)** Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision ~~(13)~~; **(15)**; or

(B) construct, rehabilitate, or repair commercial property within the district.

~~(15)~~ **(17)** Require as a condition of financial assistance to the owner of a multiunit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the county's median income for families; and

(C) at an affordable rate.

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Conditions imposed by the commission under this subdivision remain in force throughout the period determined under clause (A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

~~(16)~~ **(18)** Provide programs in job training, job enrichment, and basic skill development for residents of an enterprise zone.

~~(17)~~ **(19)** Provide loans and grants for the purpose of stimulating business activity in an enterprise zone or providing employment for residents of an enterprise zone.

~~(18)~~ **(20)** Contract for the construction, extension, or improvement of:

(A) public ways, sidewalks, sewers, waterlines, parking facilities, park or recreational areas, or other local public improvements (as defined in IC 36-7-15.3-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the redevelopment district; or

(B) any structure that enhances development or economic development.

(b) In addition to its powers under subsection (a), the commission may plan and undertake, alone or in cooperation with other agencies, projects for the redevelopment of, rehabilitating, preventing the spread of, or eliminating slums or areas needing redevelopment, both residential and nonresidential, which projects may include any of the following:

(1) The repair or rehabilitation of buildings or other improvements by the commission, owners, or tenants.

(2) The acquisition of real property.

(3) Either of the following with respect to environmental contamination on real property:

(A) Investigation.

(B) Remediation.

~~(3)~~ **(4)** The demolition and removal of buildings or improvements on buildings acquired by the commission where necessary **for any of the following:**

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

(C) To lessen density.

(D) To reduce traffic hazards.

(E) To eliminate obsolete or other uses detrimental to public welfare.

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(F) To otherwise remove or prevent the conditions described in IC 36-7-1-3. ~~or~~

(G) To provide land for needed public facilities.

~~(4)~~ (5) The preparation of sites and the construction of improvements (such as public ways and utility connections) to facilitate the sale or lease of property.

~~(5)~~ (6) The construction of buildings or facilities for residential, commercial, industrial, public, or other uses.

~~(6)~~ (7) The disposition in accordance with this chapter, for uses in accordance with the plans for the projects, of any property acquired in connection with the projects.

(c) The commission may use its powers under this chapter relative to real property and interests in real property obtained by voluntary sale or transfer, even though the real property and interests in real property are not located in a redevelopment or urban renewal project area established by the adoption and confirmation of a resolution under sections ~~8(b)~~, **8(c)**, 9, 10, and 11 of this chapter. In acquiring real property and interests in real property outside of a redevelopment or urban renewal project area, the commission shall comply with section 12(b) through 12(e) of this chapter. The commission shall hold, develop, use, and dispose of this real property and interests in real property substantially in accordance with section 15 of this chapter.

(d) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(e) All powers that may be exercised under this chapter by the commission may also be exercised by the commission in carrying out its duties and purposes under IC 36-7-15.3.

SECTION 43. IC 36-7-15.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with **any of the following**:

(1) The repair and maintenance of buildings that have been acquired and are not to be cleared.

(2) **Investigation of environmental contamination.**

(3) **Remediation of environmental contamination.**~~+~~

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1 ~~his clearance, repair, and maintenance~~ **The commission may be carried**
 2 **carry out the activities under this subsection** by labor employed
 3 directly by the commission or by contract. Contracts for clearance may
 4 provide that the contractor is entitled to retain and dispose of salvaged
 5 material, as a part of the contract price or on the basis of stated prices
 6 for the amounts of the various materials actually salvaged.

7 (b) All contracts for material or labor under this section shall be let
 8 under IC 36-1.

9 (c) In the replanning and rezoning of the real property acquired, the
 10 opening, closing, relocation, and improvement of public ways, and the
 11 construction, relocation, or improvement of levees, sewers, and utility
 12 services, the commission shall proceed in the same manner as private
 13 owners of property. It may negotiate with the proper officers and
 14 agencies to secure the proper orders, approvals, and consents.

15 (d) The commission may pay any charges or assessments made on
 16 account of orders, approvals, consents, and construction work under
 17 this section, or may agree to pay these assessments in installments as
 18 provided by statute in the case of private owners. The commission may:

- 19 (1) by special waiver filed with the works board, waive the
 20 statutory procedure and notices required by law in order to create
 21 valid liens on private property; and
 22 (2) cause any assessments to be spread on a different basis than
 23 that provided by statute.

24 (e) None of the real property acquired under this chapter may be set
 25 aside and dedicated for public ways, sewers, levees, parks, or other
 26 public purposes until the commission has obtained the consent and
 27 approval of the department or agency under whose jurisdiction the
 28 property will be placed.

29 SECTION 44. IC 36-7-15.1-20, AS AMENDED BY P.L.185-2005,
 30 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2007]: Sec. 20. In addition to its authority under any other
 32 section of this chapter, the commission may plan and undertake urban
 33 renewal projects. For purposes of this chapter, an urban renewal project
 34 includes undertakings and activities for the elimination or the
 35 prevention of the development or spread of the conditions described in
 36 IC 36-7-1-3, and may involve any work or undertaking that is
 37 performed for those purposes constituting a redevelopment project, or
 38 any rehabilitation or conservation work, or any combination of such an
 39 undertaking or work, such as **the following**:

- 40 (1) Carrying out plans for a program of voluntary or compulsory
 41 repair and rehabilitation of buildings or other improvements.
 42 (2) Acquisition of real property and demolition, removal, or

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rehabilitation of buildings and improvements on the property when necessary to **do any of the following:**

(A) Eliminate unhealthful, unsanitary, or unsafe conditions.

(B) Mitigate or eliminate environmental contamination.

(C) Lessen density.

(D) Reduce traffic hazards.

(E) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.

(F) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3. ~~or~~

(G) Provide land for needed public facilities.

(3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project. ~~and~~

(4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

SECTION 45. IC 36-7-15.1-22, AS AMENDED BY P.L.185-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the commission and all public and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the commission may also:

(1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

(3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;

(4) make preliminary surveys, **including environmental assessments**, to determine if the undertaking and carrying out of an urban renewal project are feasible;

(5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;

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(6) make relocation payments in accordance with eligibility requirements of IC 8-23-17 or the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (42 U.S.C. 4621 et seq.) to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and (7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

SECTION 46. IC 36-7-15.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) Any:

- (1) political subdivision; ~~or~~
- (2) other governmental entity;
- (3) public instrumentality created by state law; or**
- (4) public body created by state law;**

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The commission may delegate to:

- (1) an executive department of the consolidated city or county; ~~or~~
- ~~to~~
- (2) another governmental entity;
- (3) a public instrumentality created by state law; or**
- (4) a public body created by state law;**

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department or entity is authorized to act. The department, ~~or~~ entity, **public instrumentality, or public body** may then carry out or perform those powers or functions for the commission.

(c) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

SECTION 47. IC 36-7-15.1-41 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 41. (a) A political
 2 subdivision, ~~or other~~ **another** governmental entity, **a public**
 3 **instrumentality created by state law, or a public body created by**
 4 **state law** may, in the area in which it is authorized to act, do all things
 5 necessary to aid and cooperate in the planning and undertaking of a
 6 redevelopment or economic development project, including furnishing
 7 the financial and other assistance that it is authorized by this chapter to
 8 furnish for or in connection with a redevelopment plan or
 9 redevelopment project.

10 (b) A unit, ~~or other~~ **another** governmental entity, **a public**
 11 **instrumentality created by state law, or a public body created by**
 12 **state law** may enter into agreements with the commission or any other
 13 entity respecting action to be taken under this chapter, including the
 14 furnishing of funds or other assistance in connection with a
 15 redevelopment or economic development plan or project. These
 16 agreements may extend over any period, notwithstanding any other law.

17 SECTION 48. [EFFECTIVE UPON PASSAGE] (a) **An**
 18 **underground storage tank system that contains fuel composed of**
 19 **greater than fifteen percent (15%) alcohol is considered to comply**
 20 **with IC 13-23-5-1(b), as added by this act, if either of the following**
 21 **applies:**

22 (1) **The system predates the effective date of this act.**

23 (2) **The system predates the solid waste management board's**
 24 **adoption after the effective date of this act of any additional**
 25 **rules concerning technical and safety requirements for storing**
 26 **and dispensing alcohol blended fuel.**

27 (b) **Replacement tanks or ancillary equipment installed in**
 28 **existing underground storage tank systems storing or dispensing**
 29 **alcohol blended fuels must meet the standards contained in**
 30 **additional rules adopted by the solid waste management board as**
 31 **described in subsection (a)(2) only if the installation occurs after**
 32 **the adoption of those rules.**

33 SECTION 49. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1192, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 2.

Page 2, line 6, delete "to Property Owners" and insert **"of Release, Spill, or Overfill"**.

Page 2, line 9, delete "This chapter applies to a person required to report:" and insert **"If the department receives a report concerning:"**.

Page 2, line 13, delete "." and insert";".

Page 2, delete lines 14 through 35, begin a new line blocked left and insert:

"the department shall, not more than seven (7) days after receiving the report, provide notice of the release, spill, or overfill to the county health officer of each county in which the release, spill, or overfill occurred.

Sec. 3. Not more than seven (7) days after receiving a notice from the department under section 2 of this chapter, a county health officer shall do the following:

(1) Publish notice of the release, spill, or overfill in a newspaper of general circulation in the county health officer's county.

(2) Provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate.

Sec. 4. Notice provided by a county health officer under section 3 of this chapter must include:

(1) the same information reported to the department under 329 IAC 9-4-1(1) or 329 IAC 9-4-4(a); and

(2) any other information the county health officer considers necessary or appropriate."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1192 as introduced.)

DVORAK, Chair

Committee Vote: yeas 9, nays 0.

EH 1192—LS 6014/DI 52+



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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1192, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-23-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to section 2 of this chapter, **and except as provided in subsection (b)**, an underground storage tank, whether of single or double wall construction, may not be installed before the effective date of the rules adopted under IC 13-23-1-2 for the purpose of storing regulated substances unless:

- (1) the tank will prevent releases due to corrosion or structural failure for the operational life of the tank;
- (2) the tank is:
 - (A) cathodically protected against corrosion;
 - (B) constructed of noncorrosive material;
 - (C) steel clad with a noncorrosive material; or
 - (D) designed to prevent the release or threatened release of any stored substance; ~~and~~
- (3) the material used in the construction or lining of the tank is compatible with the substance to be stored; **and**
- (4) **after July 1, 2007, all newly installed or replaced piping connected to the tank meets the secondary containment requirements adopted by the board.**

(b) An underground storage tank system that contains alcohol blended fuels composed of greater than fifteen percent (15%) alcohol is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect January 1, 2007) and may be installed during the period referred to in subsection (a) if the system is otherwise in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks and ancillary equipment, including dispensing equipment, used in the storing or dispensing of alcohol blended fuels for purposes of:

- (1) IC 13-23-8-3(1)(A); and**
- (2) all other provisions of this article.**

(c) Owners and operators of underground storage tank systems that store, carry, or dispense alcohol blended fuels composed of

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greater than fifteen percent (15%) alcohol and that comply with subsection (b) are considered to meet the standards of:

- (1) compatibility under subsection (a)(3); and
- (2) compliance for purposes of:
 - (A) IC 13-23-8-3; and
 - (B) all other provisions of this article.

SECTION 2. IC 13-23-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. For the purposes of section 2 of this chapter, the following amounts shall be used:

- (1) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

- (A) is not in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

- (B) is in compliance on a date required under the requirements described under section 4 of this chapter at the time a release was discovered;

the amount is thirty-five thousand dollars (\$35,000).

- (2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

- (A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; ~~and~~

- (B) is not a double walled underground petroleum storage tank; ~~with and~~

- (C) ~~has~~ piping that ~~has~~ **does not have** secondary containment; the amount is thirty thousand dollars (\$30,000).

- (3) ~~If the underground petroleum storage tank that is involved in the occurrence for which claims are made:~~

- (A) ~~is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;~~

- (B) ~~is not a double walled underground petroleum storage tank; and~~

- (C) ~~has piping that has secondary containment;~~ the amount is twenty-five thousand dollars (\$25,000).

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(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment; the amount is twenty-five thousand dollars (\$25,000).

(5) If the underground petroleum storage tank that was involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

(B) is a double walled underground petroleum storage tank; with and

(C) has piping that has secondary containment; the amount is twenty-five thousand dollars (\$25,000). (\$20,000).".

Page 2, after line 12, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE UPON PASSAGE] (a) An underground storage tank system that contains fuel composed of greater than fifteen percent (15%) alcohol is considered to comply with IC 13-23-5-1(b), as added by this act, if either of the following applies:

(1) The system predates the effective date of this act.

(2) The system predates the solid waste management board's adoption after the effective date of this act of any additional rules concerning technical and safety requirements for storing and dispensing alcohol blended fuel.

(b) Replacement tanks or ancillary equipment installed in existing underground storage tank systems storing or dispensing alcohol blended fuels must meet the standards contained in additional rules adopted by the solid waste management board as described in subsection (a)(2) only if the installation occurs after the adoption of those rules.

SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

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and when so amended that said bill do pass.

(Reference is to HB 1192 as printed February 16, 2007.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1192 be amended to read as follows:

Page 4, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 4. IC 13-30-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to actions brought by the state or a ~~private~~ person. However, this chapter does not apply to an action brought by the state if the action arises from a site that:

- (1) is listed on the National Priorities List for hazardous substance response sites (40 CFR 300 et seq.);
- (2) scores at least twenty-five (25) under the Indiana scoring model under 329 IAC 7; or
- (3) is deemed by the commissioner to pose an imminent threat to human health or the environment.

SECTION 5. IC 13-30-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person may, ~~bring an environmental legal action against a~~ **regardless of whether the person who** caused or contributed to the release of a hazardous substance or petroleum into the surface or subsurface soil or groundwater that poses a risk to human health and the environment, **bring an environmental legal action against a person that caused or contributed to the release** to recover reasonable costs of a removal or remedial action involving the hazardous substances or petroleum.

SECTION 6. IC 13-30-9-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. IC 34-11-2-11.5 applies to an environmental legal action brought under section 2 of this chapter.**

SECTION 7. IC 34-11-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **Except as provided in section 11.5 of this chapter,** the following actions must be commenced within six (6) years after the cause of action accrues:

- (1) Actions on accounts and contracts not in writing.

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- (2) Actions for use, rents, and profits of real property.
- (3) Actions for injuries to property other than personal property, damages for detention of personal property and for recovering possession of personal property.
- (4) Actions for relief against frauds.

SECTION 8. IC 34-11-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) Subject to subsection (c), a person that discovered before February 28, 1998, the presence of a hazardous substance or petroleum in soil or groundwater that is the basis for an action under IC 13-30-9-2 must bring the action before February 28, 2008.**

(b) If subsection (a) does not apply, subject to subsection (c), a person must bring an action under IC 13-30-9-2 within ten (10) years after the date the person discovers the presence of a hazardous substance or petroleum in soil or groundwater that is the basis for the action.

(c) This section does not permit a person to revive an action brought under IC 13-30-9-2 that was finally adjudicated against the person.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) IC 34-11-2-11.5, as added by this act:**

- (1) applies prospectively from the effective date of this act; and**
- (2) subject to IC 34-11-2-11.5(c), as added by this act, and notwithstanding IC 34-11-2-7, as in effect before the effective date of this act, allows a person to maintain an environmental legal action brought before the effective date of this act.**

(b) IC 13-30-9-2, as amended by this act, applies:

- (1) prospectively from the effective date of this act; and**
- (2) to an action that may be maintained under subsection (a)(2)."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1192 as printed March 13, 2007.)

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1192 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 77. (a) "Facility", for purposes of IC 13-15-1-3, means a structure or an area of land used for the disposal, treatment, storage, recovery, processing, or transferring of solid waste, hazardous waste, or atomic radiation. The term includes the following:

- (1) A hazardous waste facility.
- (2) An incinerator.
- (3) A solid waste landfill.
- (4) A transfer station.

(b) "Facility", for purposes of IC 13-17-7, means a single structure, piece of equipment, installation, or operation that:

- (1) emits; or
- (2) has the potential to emit;

a regulated air pollutant.

(c) "Facility", for purposes of IC 13-18-5, means a building, a structure, equipment, or other stationary item that is located on:

- (1) a single site; or
- (2) contiguous or adjacent sites that are owned by, operated by, or under common control of the same person.

(d) "Facility", for purposes of IC 13-21, means a facility, a plant, a works, a system, a building, a structure, an improvement, machinery, equipment, a fixture, or other real or personal property of any nature that is to be used, occupied, or employed for the collection, storage, separation, processing, recovery, treatment, marketing, transfer, or disposal of solid waste.

(e) "Facility", for purposes of IC 13-25-2, means all buildings, equipment, structures, and other stationary items that are:

- (1) located on a single site or on contiguous or adjacent sites; and
- (2) owned or operated by:
 - (A) the same person; or
 - (B) any person that controls, is controlled by, or is under common control with the same person.

For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling stock, and aircraft.

(f) "Facility", for purposes of IC 13-25-4, has the meaning set forth in 42 U.S.C. 9601(9).

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(g) "Facility", for purposes of IC 13-29-1, means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

SECTION 2. IC 13-11-2-142.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 142.3. "Nonprofit corporation", for purposes of this chapter and IC 13-25-4-8, refers to a nonprofit corporation:**

- (1) that is exempt from income taxation under 26 U.S.C. 501;
- (2) for which the primary purpose, as identified in the corporation's articles of incorporation, is to assist and support a political subdivision in a matter of public concern; and
- (3) that has no member affiliated with any other person that is potentially liable for response costs at a facility through any of the following:

(A) A direct or an indirect familial relationship.

(B) A contractual, corporate, or financial relationship other than a contractual, corporate, or financial relationship that is created:

(i) by the instruments by which title to the facility is conveyed or financed; or

(ii) by a contract for the sale of goods or services.

(C) The result of a reorganization of a business entity that was potentially liable for response costs at the facility.

SECTION 3. IC 13-11-2-148 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

- (1) a water treatment plant;
- (2) a wastewater treatment plant; or
- (3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

- (1) A broker.
- (2) A person who manages the activities of a transfer station that receives municipal waste.
- (3) A transporter.

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(d) "Operator", for purposes of IC 13-23, except as provided in subsection (e), means a person:

- (1) in control of; or
- (2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include the following:

- (1) A person who:
 - (A) does not participate in the management of an underground storage tank;

(B) is otherwise not engaged in the:

- (i) production;
- (ii) refining; and
- (iii) marketing;

of regulated substances; and

(C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.

- (2) A person who:

(A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;

(B) does not participate in the management of the facility or business described in clause (A); and

(C) is engaged only in:

- (i) filling;
- (ii) gauging; or
- (iii) filling and gauging;

the product level in the course of delivering fuel to an underground storage tank.

- (3) A political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that:**

(A) acquires ownership or control of an underground storage tank on a brownfield because of:

- (i) bankruptcy;**
- (ii) foreclosure;**
- (iii) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;**
- (iv) abandonment;**
- (v) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;**
- (vi) receivership;**
- (vii) transfer from another political subdivision or unit**

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of federal or state government;

(viii) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(ix) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest in the property because of the political subdivision's or unit's function as sovereign; or

(x) any other means to conduct remedial actions on a brownfield; and

(B) is engaged only in activities in conjunction with:

(i) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(ii) monitoring or closure of an underground storage tank;

unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(f) For purposes of subsection (e)(3)(B), reckless, willful, or wanton misconduct constitutes gross negligence.

SECTION 4. IC 13-11-2-150, AS AMENDED BY P.L.208-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in subsections (b), ~~and~~ (c), **and (d)**) means:

(1) for an underground storage tank that:

(A) was:

(i) in use on November 8, 1984; or

(ii) brought into use after November 8, 1984;

for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank; or

(B) is:

(i) in use before November 8, 1984; but

(ii) no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; or

(2) a person who conveyed ownership or control of the

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underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

- (A) bankruptcy;
- (B) foreclosure;
- (C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;
- (D) abandonment;
- (E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
- (F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

~~(G)~~ **(H)** other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

~~(H)~~ **(I)** any other means to conduct remedial actions on a brownfield;

if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

- (1) does not participate in the management of an underground storage tank;
- (2) is otherwise not engaged in the:
 - (A) production;
 - (B) refining; and
 - (C) marketing;
 of regulated substances; and
- (3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

- (1) bankruptcy;
- (2) foreclosure;

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- (3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;
- (4) abandonment;
- (5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
- (6) receivership;
- ~~(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign;~~
- ~~(8)~~ (7) transfer from another political subdivision or unit of federal or state government; or
- (8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;**
- (9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or**
- ~~(9)~~ (10) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a **regulated** substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

(d) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

SECTION 5. IC 13-11-2-151, AS AMENDED BY P.L.208-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

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(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a petroleum facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

~~(G)~~ **(H)** other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

~~(H)~~ **(I)** any other means to conduct remedial actions on a brownfield;

to a political subdivision or unit of federal or state government, a person who owned, operated, or otherwise controlled the petroleum facility immediately before title or control was conveyed.

(b) Subject to subsection (c), the term does not include a political subdivision or unit of federal or state government that acquired ownership or control of the facility through:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

~~(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired title because~~

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of the political subdivision's or unit's function as sovereign;

~~(8)~~ (7) transfer from another political subdivision or unit of federal or state government; or

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

~~(9)~~ (10) any other means to conduct remedial actions on a brownfield.

(c) The term includes a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a **regulated** substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-24-1:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under IC 13-24-1.

(d) The term does not include a person who:

(1) does not participate in the management of a petroleum facility;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of petroleum; and

(3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.

(e) The term does not include a nonprofit corporation that acquired ownership or control of a facility to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-24-1 in the same manner and to the same extent as any other nongovernmental entity under IC 13-24-1.

SECTION 6. IC 13-11-2-183 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 183. "Regulated substance", for purposes of **this chapter** and IC 13-23, includes the

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following:

(1) Any substance defined in section 98 of this chapter as a hazardous substance, but excluding any substance regulated as a hazardous waste under:

(A) Subtitle C of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6921 through 6939(a)); or

(B) IC 13-22-2-3.

(2) Petroleum.

(3) Any other substance designated by rules adopted by the solid waste management board under IC 13-23-1-2.

SECTION 7. IC 13-19-5-1, AS AMENDED BY P.L.235-2005, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The environmental remediation revolving loan program is established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property ~~by political subdivisions~~ by providing grants, loans, forgivable loans, or other financial assistance to political subdivisions to conduct any of the following activities:

(1) Identification and acquisition of brownfields within a political subdivision as suitable candidates for redevelopment following the completion of remediation activities.

(2) Environmental assessment of identified brownfields, **including assessment of petroleum contamination**, and other activities necessary or convenient to complete the environmental assessments.

(3) Remediation activities conducted on brownfields, including:

(A) remediation of petroleum contamination; **and**

(B) **other activities necessary or convenient to complete remediation activities conducted on brownfields, including clearance of real property.**

~~(4) The clearance of real property under IC 36-7-14-12.2 or IC 36-7-15.1-7 in connection with remediation activities.~~

~~(5) (4) Other activities in conjunction with assessment and remediation activities necessary or convenient to complete remediation activities on brownfields.~~ **prepare a brownfield for redevelopment.**

SECTION 8. IC 13-19-5-2, AS AMENDED BY P.L.235-2005, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The environmental remediation revolving loan fund is established for the purpose of providing money for loans and other financial assistance, including grants, to or for the benefit of political subdivisions under this chapter.

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The authority shall administer, hold, and manage the fund.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Grants and gifts intended for deposit in the fund.
- (3) Repayments of loans and other financial assistance, including premiums, interest, and penalties.
- (4) Proceeds from the sale of loans and other financial assistance under section 9 of this chapter.
- (5) Interest, premiums, gains, or other earnings on the fund.
- (6) Money transferred from the hazardous substances response trust fund under IC 13-25-4-1(a)(9).

(7) Fees collected under section 7 of this chapter.

(d) The authority shall invest the money in the fund not currently needed to meet the obligations of the fund in accordance with an investment policy adopted by the authority. Interest, premiums, gains, or other earnings from these investments shall be credited to the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

- (1) the authority;
- (2) a political subdivision;
- (3) the Indiana bond bank; or
- (4) any person to which the authority, the Indiana bond bank, or a political subdivision is obligated, including a trustee that is a financial institution for a grantor trust;

as provided in the trust agreement or indenture. The budget agency must approve any trust agreement or indenture before its execution.

SECTION 9. IC 13-19-5-3, AS AMENDED BY P.L.235-2005, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** The authority shall do the following under this chapter:

- (1) Be responsible for the management of all aspects of the program.
- (2) Prepare and provide program information.
- (3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.

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- (4) Sign each financial assistance agreement.
- (5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.
- (6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.
- (7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:
 - (A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and
 - (B) otherwise comply with terms of the financial assistance agreement.
- (8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:
 - (A) environmental assessment of potential brownfield properties;
 - (B) proposed remediation; and
 - (C) remediation activities conducted on brownfield properties.
- (9) Inspect or cause to be inspected remediation activities conducted under this chapter.
- (10) Act as a liaison ~~with the department~~ to the United States Environmental Protection Agency regarding the program.
- (11) Be a point of contact for political subdivisions concerning questions about the program.
- (12) Enter into memoranda of understanding, as necessary, with the department and the budget agency concerning the administration and management of the fund and the program.

(b) The authority may do the following under this chapter:

- (1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.**
- (2) Enter into agreements with political subdivisions to manage any of the following conducted on brownfield properties:**
 - (A) Environmental assessment activities.**
 - (B) Environmental remediation activities.**

(c) The authority may:

- (1) negotiate with;**
- (2) select; and**
- (3) contract with;**

one (1) or more insurers to provide insurance products as

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described in subsection (b)(1).

(d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(e) For purposes of subsection (d), reckless, willful, or wanton misconduct constitutes gross negligence.

(f) The authority is entitled to the same governmental immunity afforded a political subdivision under IC 34-13-3-3(23) for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield under an agreement under subsection (b)(2).

SECTION 10. IC 13-19-5-7, AS AMENDED BY P.L.235-2005, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The authority may provide services to a ~~political subdivision~~ **person (as defined in IC 13-11-2-158(a))** in connection with ~~a loan or other financial assistance, including advisory and other services,~~ **technical assistance, and liability clarification,** and may ~~charge~~ **assess and collect** a fee for:

(1) services provided **to offset the costs of providing the services;** and

(2) costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.

(b) A political subdivision may pay fees charged under this section.

(c) The authority shall adopt guidelines for the assessment and collection of fees under this section.

(d) Fees collected under this section shall be deposited in the fund.

SECTION 11. IC 13-19-5-8, AS AMENDED BY P.L.235-2005, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The authority may use a priority ranking system in making loans and providing other financial assistance under this chapter based on the following:

(1) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(2) The technical evaluation ~~by the department~~ under section 3(8)(A) and 3(8)(B) of this chapter.

(3) Other factors determined by the authority, including the

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following:

- (A) The number and quality of jobs that would be generated by a project.
- (B) Housing, recreational, and educational needs of communities.
- (C) Any other factors the authority determines will assist in the implementation of this chapter.

SECTION 12. IC 13-19-5-9, AS AMENDED BY P.L.235-2005, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A loan or other financial assistance must be used for at least one (1) of the purposes under section 1 of this chapter and may be used for any of the following purposes:

(1) To:

- (A) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by this chapter; or
- (B) provide interest subsidies.
- (2) To pay financing charges, including interest on the loan or other financial assistance during remediation and for a reasonable period after the completion of remediation.
- (3) To pay consultant, advisory, and legal fees, and any other costs or expenses resulting from:
 - (A) the assessment, planning, or remediation of a brownfield; or
 - (B) the loan or other financial assistance.

(b) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(c) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

- (1) Credit risk.
- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular political subdivision is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than

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one (1) interest rate may be established and used for loans or other financial assistance to different political subdivisions or for different loans or other financial assistance to the same political subdivision.

(d) Not more than ~~ten~~ **fifty** percent ~~(+0%)~~ **(50%)** of the money available in the fund during a **state fiscal** year may be loaned or otherwise provided to any one (1) political subdivision **during that fiscal year.**

(e) Before a political subdivision may receive a loan or other financial assistance, including grants, from the fund, a political subdivision must submit the following:

- (1) Documentation of community and neighborhood comment concerning the use of a brownfield on which remediation activities will be undertaken after remediation activities are completed.
- (2) A plan for repayment of the loan or other financial assistance, if applicable.
- (3) An approving opinion of a nationally recognized bond counsel if required by the authority.
- (4) A summary of the environmental objectives of the proposed project.

(f) A political subdivision that receives a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the political subdivision.

(g) The authority may sell or assign:

- (1) loans or evidence of other financial assistance; and
- (2) other obligations of political subdivisions evidencing the loans or other financial assistance from the fund;

at any price and on terms acceptable to the authority. Proceeds of sales or assignments under this subsection shall be deposited in the fund. A sale or an assignment under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the sale or assignment terms.

(h) The authority may pledge loans or evidences of other financial assistance and other obligations of political subdivisions evidencing the loans or other financial assistance from the fund to secure other loans or financial assistance from the fund to or for the benefit of political subdivisions. The terms of a pledge under this subsection must be approved by the budget agency. Notwithstanding any other law, a pledge of property made by the authority and approved by the budget agency under this subsection is binding from the time the pledge is made. Revenues, other money, or other property pledged and then

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received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, a trustee, or the fund, regardless of whether the parties have notice of a lien. A resolution, an indenture, or other instrument by which a pledge is created is not required to be filed or recorded, except in the records of the authority. An action taken to enforce a pledge under this subsection and to realize the benefits of the pledge is limited to the property pledged. A pledge under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the pledge terms."

Page 3, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 15. IC 13-23-13-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. (a) A political subdivision or unit of federal or state government that acquired ownership or control of an underground storage tank on a brownfield by any of the means listed in IC 13-11-2-150(c) and IC 13-11-2-151(b) may undertake any activity in conjunction with:**

(1) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(2) monitoring or closure of an underground storage tank; without being considered as contributing to the existing release or threatened release of a regulated substance on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(b) For purposes of subsection (a), reckless, willful, or wanton misconduct constitutes gross negligence."

Page 4, between lines 27 and 28, begin a new paragraph and insert:

SECTION 17. IC 13-25-4-8, AS AMENDED BY P.L.1-2006, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a) Except as provided in subsection (b), (c), or (d), a person that is liable under Section 107(a) of CERCLA (42 U.S.C. 9607(a)) for:**

(1) the costs of removal or remedial action incurred by the commissioner consistent with the national contingency plan;

(2) the costs of any health assessment or health effects study carried out by or on behalf of the commissioner under Section 104(i) of CERCLA (42 U.S.C. 9604(i)); or

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- (3) damages for:
 - (A) injury to;
 - (B) destruction of; or
 - (C) loss of;

natural resources of Indiana;

is liable, in the same manner and to the same extent, to the state under this section.

(b) The exceptions provided by Sections 107(b), 107(q), and 107(r) of CERCLA (42 U.S.C. 9607(b), 42 U.S.C. 9607(q), and 42 U.S.C. 9607(r)) to liability otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise imposed under subsection (a).

(c) Notwithstanding any liability imposed by the environmental management laws, a lender, a secured or unsecured creditor, or a fiduciary is not liable under the environmental management laws, in connection with the release or threatened release of a hazardous substance from a facility unless the lender, the fiduciary, or creditor has participated in the management of the hazardous substance at the facility.

(d) Notwithstanding any liability imposed by the environmental management laws, the liability of a fiduciary for a release or threatened release of a hazardous substance from a facility that is held by the fiduciary in its fiduciary capacity may be satisfied only from the assets held by the fiduciary in the same estate or trust as the facility that gives rise to the liability.

(e) Except as provided in subsection (g), a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the political subdivision or unit of federal or state government acquired an interest ~~in the property~~ because of:

- (1) bankruptcy;
- (2) foreclosure;
- (3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;
- (4) abandonment;
- (5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
- (6) receivership;
- (7) ~~other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest~~

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in the property because of the political subdivision's or unit's function as sovereign;

~~(8)~~ (7) transfer from another political subdivision or unit of federal or state government; or

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

~~(9)~~ **(10) any other means to conduct remedial actions on a brownfield.**

(f) If a transfer of an interest in property as described in subsection (e) occurs, a person who owned, operated, or otherwise controlled the property immediately before the political subdivision or unit of federal or state government acquired the interest in the property remains liable under this section:

(1) in the same manner; and

(2) to the same extent;

as the person was liable immediately before the person's interest in the property was acquired by the political subdivision or unit of federal or state government.

(g) Notwithstanding subsection (e), a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under this section.

(h) Except as provided in subsection (i), a nonprofit corporation is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the nonprofit corporation acquired an interest to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation.

(i) Notwithstanding subsection (h), a nonprofit corporation that causes or contributes to a release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

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(1) in the same manner; and
 (2) to the same extent;
 as any other nongovernmental entity under this section.

(j) A political subdivision or unit of federal or state government that establishes an exemption or defense under subsection (b) or (e) may undertake any activity related to:

(1) investigation, removal, or remedial action on a brownfield, including complying with land use restrictions and institutional controls; or
 (2) monitoring or closure of an underground storage tank; without being considered as contributing to the existing release or threatened release of hazardous substances on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(k) For purposes of subsection (j), reckless, willful, or wanton misconduct constitutes gross negligence.

SECTION 18. IC 36-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies to the following:

- (1) The state.
- (2) All political subdivisions.
- (3) All state agencies.
- (4) Any of the following created by state law:**
 - (A) Public instrumentalities.**
 - (B) Public corporate bodies.**

- ~~(4)~~ **(5)** Another state to the extent authorized by the law of that state.
- ~~(5)~~ **(6)** Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.
- ~~(6)~~ **(7)** Agencies of the federal government, to the extent authorized by federal laws.

SECTION 19. IC 36-1-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) If an agreement under section 3 of this chapter:

- (1) involves as parties:
 - (A) only Indiana political subdivisions; or**
 - (B) an Indiana political subdivision and:**
 - (i) a public instrumentality; or**
 - (ii) a public corporate body;****created by state law;**
- (2) is approved by the fiscal body of each party **that is an**

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Indiana political subdivision either before or after it **the agreement** is entered into by the ~~executives~~ **executive** of the ~~parties;~~ **party;** and

(3) delegates to the treasurer or disbursing officer of one (1) of the parties **that is an Indiana political subdivision** the duty to receive, disburse, and account for all monies of the joint undertaking;

then the approval of the attorney general is not required.

(b) If subsection (a) does not apply, an agreement under section 3 of this chapter must be submitted to the attorney general for his approval. The attorney general shall approve the agreement unless ~~he~~ **the attorney general** finds that it does not comply with the statutes, in which case ~~he~~ **the attorney general** shall detail in writing for the ~~executives of the~~ parties the specific respects in which the agreement does not comply. If the attorney general fails to disapprove the agreement within sixty (60) days after it is submitted to ~~him;~~ **the attorney general**, it is considered approved.

SECTION 20. IC 36-1-7-15, AS AMENDED BY P.L.203-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) As used in this section, "economic development entity" means **any of the following**:

- (1) A department of redevelopment organized under IC 36-7-14.
- (2) A department of metropolitan development under IC 36-7-15.1.
- (3) A port authority organized under IC 8-10-5. ~~or~~
- (4) An airport authority organized under IC 8-22-3.
- (5) **The Indiana finance authority.**

(b) Notwithstanding section 2 of this chapter, two (2) or more economic development entities may enter into a written agreement under section 3 of this chapter if the agreement is approved by each entity's governing body.

(c) A party to an agreement under this section may do one (1) or more of the following:

- (1) Except as provided in subsection (d), grant one (1) or more of its powers to another party to the agreement.
- (2) Exercise any power granted to it by a party to the agreement.
- (3) Pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, IC 36-7-15.1, or IC 8-22-3.5, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(d) An economic development entity may not grant to another entity the power to tax or to establish an allocation area under IC 8-22-3.5,

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IC 36-7-14-39, or IC 36-7-15.1.

(e) An agreement under this section does not have to comply with section 3(a)(5) or 4 of this chapter.

(f) An action to challenge the validity of an agreement under this section must be brought within thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 21. IC 36-7-1-3, AS AMENDED BY P.L.185-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. "Area needing redevelopment" means an area in which normal development and occupancy are undesirable or impossible because of **any of the following**:

- (1) Lack of development.
- (2) Cessation of growth.
- (3) Deteriorated or deteriorating improvements.
- (4) Environmental contamination.**
- ~~(4)~~ **(5)** Character of occupancy.
- ~~(5)~~ **(6)** Age.
- ~~(6)~~ **(7)** Obsolescence.
- ~~(7)~~ **(8)** Substandard buildings. ~~or~~
- ~~(8)~~ **(9)** Other factors that impair values or prevent a normal use or development of property.

SECTION 22. IC 36-7-1-18, AS AMENDED BY P.L.185-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. "Redevelopment" includes the following activities:

- (1) Acquiring real property in areas needing redevelopment.
- (2) Replatting and determining the proper use of real property acquired.
- (3) Opening, closing, relocating, widening, and improving public ways.
- (4) Relocating, constructing, and improving sewers, utility services, offstreet parking facilities, and levees.
- (5) Laying out and constructing necessary public improvements, including parks, playgrounds, and other recreational facilities.
- (6) Restricting the use of real property acquired according to law.
- (7) Repairing and maintaining buildings acquired, if demolition of those buildings is not considered necessary to carry out the redevelopment plan.
- (8) Rehabilitating real or personal property ~~whether or not acquired~~, to carry out the redevelopment or urban renewal plan, **regardless of whether the real or personal property is**

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acquired by the unit.

(9) Investigating and remediating environmental contamination on real property to carry out the redevelopment or urban renewal plan, regardless of whether the real property is acquired by the unit.

~~(9)~~ (10) Disposing of property acquired on the terms and conditions and for the uses and purposes that best serve the interests of the units served by the redevelopment commission.

~~(10)~~ (11) Making payments required or authorized by IC 8-23-17.

~~(11)~~ (12) Performing all acts incident to the statutory powers and duties of a redevelopment commission.

SECTION 23. IC 36-7-1-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Remediation" has the meaning set forth in IC 13-11-2-186.**

SECTION 24. IC 36-7-14-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) The **assessment**, planning, replanning, **remediation**, development, and redevelopment of economic development areas:

(1) are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:

~~(1)~~ (A) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and

~~(2)~~ (B) the costs of these projects;

~~(b) The planning, replanning, development, and redevelopment of economic development areas~~

(2) will:

~~(1)~~ (A) benefit the public health, safety, morals, and welfare;

~~(2)~~ (B) increase the economic well-being of the unit and the state; and

~~(3)~~ (C) serve to protect and increase property values in the unit and the state;

~~(c) The planning, replanning, development, and redevelopment of economic development areas under this chapter~~

(3) are public uses and purposes for which public money may be spent and private property may be acquired.

~~(d)~~ (b) This section and sections 41 and 43 of this chapter shall be liberally construed to carry out the purposes of this section.

SECTION 25. IC 36-7-14-11, AS AMENDED BY P.L.185-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. The redevelopment commission shall:

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- (1) investigate, study, and survey areas needing redevelopment within the corporate boundaries of the unit;
 - (2) investigate, study, determine, and, to the extent possible, combat the causes of areas needing redevelopment;
 - (3) promote the use of land in the manner that best serves the interests of the unit and its inhabitants;
 - (4) cooperate:
 - (A) with the departments and agencies of:
 - (i) the unit; and ~~of~~
 - (ii) other governmental entities; **and**
 - (B) with:
 - (i) **public instrumentalities; and**
 - (ii) **public corporate bodies;**
- created by state law;**
- in the manner that best serves the purposes of this chapter;
- (5) make findings and reports on their activities under this section, and keep those reports open to inspection by the public at the offices of the department;
 - (6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and
 - (7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the unit and its inhabitants.

SECTION 26. IC 36-7-14-12.2, AS AMENDED BY P.L.185-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.2. (a) The redevelopment commission may **do the following:**

- (1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit.
- (2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the unit and its inhabitants.
- (3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

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- (4) Clear real property acquired for redevelopment purposes.
- (5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:**
- (A) Hazardous substances.**
 - (B) Petroleum.**
 - (C) Other pollutants.**
- (6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:**
- (A) Hazardous substances.**
 - (B) Petroleum.**
 - (C) Other pollutants.**
- ~~(5)~~ (7) Repair and maintain structures acquired for redevelopment purposes.
- ~~(6)~~ **(8)** Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.
- ~~(7)~~ **(9)** Survey or examine any land to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes and to determine the value of that land.
- ~~(8)~~ **(10)** Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:
- (A) real property acquired or being acquired for redevelopment purposes; or
 - (B) any area needing redevelopment within the jurisdiction of the commissioners.
- ~~(9)~~ **(11)** Institute or defend in the name of the unit any civil action.
- ~~(10)~~ **(12)** Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the department of redevelopment.
- ~~(11)~~ **(13)** Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit in the manner prescribed by section 20 of this chapter.
- ~~(12)~~ **(14)** Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.
- ~~(13)~~ **(15)** Appoint clerks, guards, laborers, and other employees the commission considers advisable, except that those

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appointments must be made in accordance with the merit system of the unit if such a system exists.

~~(14)~~ **(16)** Prescribe the duties and regulate the compensation of employees of the department of redevelopment.

~~(15)~~ **(17)** Provide a pension and retirement system for employees of the department of redevelopment by using the Indiana public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

~~(16)~~ **(18)** Discharge and appoint successors to employees of the department of redevelopment subject to subdivision ~~(13)~~; **(15)**.

~~(17)~~ **(19)** Rent offices for use of the department of redevelopment, or accept the use of offices furnished by the unit.

~~(18)~~ **(20)** Equip the offices of the department of redevelopment with the necessary furniture, furnishings, equipment, records, and supplies.

~~(19)~~ **(21)** Expend, on behalf of the special taxing district, all or any part of the money of the special taxing district.

~~(20)~~ **(22)** Contract for the construction of:

(A) local public improvements (as defined in IC 36-7-14.5-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the corporate boundaries of the unit; or

(B) any structure that enhances development or economic development.

~~(21)~~ **(23)** Contract for the construction, extension, or improvement of pedestrian skyways.

~~(22)~~ **(24)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

~~(23)~~ **(25)** Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to individuals and families whose income is at or below the unit's median income for individuals and families, respectively.

~~(24)~~ **(26)** Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision ~~(23)~~; **(25)**; or

(B) construct, rehabilitate, or repair commercial property within the district. ~~and~~

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~~(25)~~ **(27)** Require as a condition of financial assistance to the owner of a multiple unit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the unit's median income for families; and

(C) at an affordable rate.

(b) Conditions imposed by the commission under subsection ~~(a)(25)~~ **(a)(27)** remain in force throughout the period determined under subsection ~~(a)(25)(A)~~, **(a)(27)(A)**, even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(c) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(d) All powers that may be exercised under this chapter by the redevelopment commission may also be exercised by the redevelopment commission in carrying out its duties and purposes under IC 36-7-14.5.

SECTION 27. IC 36-7-14-12.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.3. IC 5-16-7 applies to:

(1) a person that enters into a contract with a redevelopment commission to perform construction work referred to in section 12.2(a)(4), ~~12.2(a)(6)~~, ~~12.2(a)(20)~~, ~~or 12.2(a)(21)~~, **12.2(a)(7), 12.2(a)(22), or 12.2(a)(23)** of this chapter; and

(2) a subcontractor of a person described in subdivision (1);
with respect to the construction work referred to in subdivision (1).

SECTION 28. IC 36-7-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) A county may contract with a city within the county to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the city.

(b) A city may contract with the county in which it is located to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the county.

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(c) A city or county may contract with:

(1) a public instrumentality; or

(2) a public corporate body;

created by state law to have the powers listed in section 12.2(a)(4) through 12.2(a)(7) of this chapter performed by the public instrumentality or public corporate body.

(c) (d) A contract made under this section must be for a stated and limited period and may be renewed.

(d) (e) Whenever a city official acts under a contract made under this section, or whenever permits or other writings are used under such a contract, the action or use must be in the name of the county redevelopment commission.

SECTION 29. IC 36-7-14-15, AS AMENDED BY P.L.185-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) Whenever the redevelopment commission finds that:

(1) an area in the territory under their jurisdiction is an area needing redevelopment;

(2) the conditions described in IC 36-7-1-3 cannot be corrected in the area by regulatory processes or the ordinary operations of private enterprise without resort to this chapter; and

(3) the public health and welfare will be benefited by the acquisition and redevelopment of the area under this chapter;

the commission shall cause to be prepared the data described in subsection (b).

(b) After making a finding under subsection (a), the commission shall cause to be prepared:

(1) maps and plats showing:

(A) the boundaries of the area needing redevelopment, the location of the various parcels of property, streets, alleys, and other features affecting the acquisition, clearance, **remediation**, replatting, replanning, rezoning, or redevelopment of the area, indicating any parcels of property to be excluded from the acquisition; and

(B) the parts of the area acquired that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes under the redevelopment plan;

(2) lists of the owners of the various parcels of property proposed to be acquired; and

(3) an estimate of the cost of acquisition and redevelopment.

(c) After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

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- (1) the area needing redevelopment is a menace to the social and economic interest of the unit and its inhabitants;
- (2) it will be of public utility and benefit to acquire the area and redevelop it under this chapter; and
- (3) the area is designated as a redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, and that the department of redevelopment proposes to acquire all of the interests in the land within the boundaries, with certain designated exceptions, if there are any.

(d) For the purpose of adopting a resolution under subsection (c), it is sufficient to describe the boundaries of the redevelopment project area by its location in relation to public ways or streams, or otherwise, as determined by the commissioners. Property excepted from the acquisition may be described by street numbers or location.

SECTION 30. IC 36-7-14-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) The redevelopment commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared, **and with the following with respect to environmental contamination:**

(1) Investigation.

(2) Remediation.

~~This clearance, repair, and maintenance~~ **The redevelopment commission may be carried carry out activities under this subsection** by labor employed directly by the commission or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) In the planning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the redevelopment commission shall proceed in the same manner as private owners of the property. It may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Any construction work required in connection with improvements in the area described in the resolution may be carried out

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by:

- (1) the appropriate municipal or county department or agency; or
- (2) the department of redevelopment, if:
 - (A) all plans, specifications, and drawings are approved by the appropriate department or agency; and
 - (B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the department of redevelopment.

(e) The redevelopment commission may pay any charges or assessments made on account of orders, approval, consents, and construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

- (1) by special waiver filed with the municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property; and
- (2) cause any assessments to be spread on a different basis than that provided by statute.

(f) None of the real property acquired under this chapter may be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the redevelopment commission has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

SECTION 31. IC 36-7-14-30, AS AMENDED BY P.L.185-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. In addition to its authority under any other section of this chapter, the redevelopment commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination and the prevention of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes and is related to a redevelopment project, or any rehabilitation or conservation work, or any combination of such an undertaking or work, such as **the following**:

- (1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.
- (2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary **for the following**:
 - (A) To eliminate unhealthful, unsanitary, or unsafe conditions.
 - (B) To mitigate or eliminate environmental contamination.

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(C) To do any of the following:

- (i) Lessen density.
 - (ii) Reduce traffic hazards.
 - (iii) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.
 - (iv) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3. ~~or~~
 - (v) Provide land for needed public facilities.
- (3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project. ~~and~~
- (4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

SECTION 32. IC 36-7-14-32, AS AMENDED BY P.L.185-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the redevelopment commission, municipal, county, public, and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the redevelopment commission may also:

- (1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;
- (2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- (3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;
- (4) make preliminary surveys, **including environmental assessments**, to determine if the undertaking and carrying out of an urban renewal project are feasible;
- (5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;
- (6) make relocation payments to or with respect to persons (including families, business concerns, and others) displaced by

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an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and

(7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

SECTION 33. IC 36-7-14-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) Any:

- (1) political subdivision; ~~or~~
- (2) other governmental entity;
- (3) public instrumentality created by state law; or**
- (4) public body created by state law;**

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The redevelopment commission may delegate to:

- (1) an executive department of a unit or county; ~~or to~~
- (2) another governmental entity;
- (3) a public instrumentality created by state law; or**
- (4) a public body created by state law;**

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department, ~~or~~ entity, **public instrumentality, or public body** is authorized to act. The department, ~~or~~ entity, **public instrumentality, or public body** may then carry out or perform those powers or functions for the commission.

(c) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the redevelopment commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

SECTION 34. IC 36-7-15.1-2, AS AMENDED BY P.L.185-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The **assessment**, clearance, **remediation**, replanning, and redevelopment of areas needing redevelopment are

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public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise, due to the necessity for the exercise of the power of eminent domain, the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens, and the cost of these projects.

(b) The conditions that exist in areas needing redevelopment are beyond remedy and control by regulatory processes because of the obsolescence and deteriorated conditions of improvements, **environmental contamination**, faulty land use, shifting of population, and technological and social changes.

(c) The **assessment**, clearing, **remediation**, replanning, and redevelopment of areas needing redevelopment will benefit the health, safety, morals, and welfare and will serve to protect and increase property values in the county and the state.

(d) The **assessment**, clearance, **remediation**, replanning, and redevelopment of areas needing redevelopment under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(e) This chapter shall be liberally construed to carry out the purposes of this section.

SECTION 35. IC 36-7-15.1-6, AS AMENDED BY P.L.185-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The commission shall:

- (1) investigate, study, and survey areas needing redevelopment within the redevelopment district;
- (2) investigate, study, determine, and to the extent possible combat the causes of the conditions described in IC 36-7-1-3;
- (3) promote the use of land in the manner that best serves the interests of the consolidated city and its inhabitants, both from the standpoint of human needs and economic values;
- (4) cooperate:
 - (A) with the departments and agencies of:
 - (i) the city; and ~~of~~
 - (ii) other governmental entities; **and**
 - (B) with:
 - (i) **public instrumentalities; and**
 - (ii) **public bodies;**
- created by state law;
- in the manner that best serves the purposes of this chapter;
- (5) make findings and reports on its activities under this section, and keep those reports open to inspection by the public at the offices of the department;

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(6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and

(7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the city and its inhabitants.

SECTION 36. IC 36-7-15.1-7, AS AMENDED BY P.L.185-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) In carrying out its duties and purposes under this chapter, the commission may do the following:

(1) Acquire by purchase, exchange, gift, grant, lease, or condemnation, or any combination of methods, any real or personal property or interest in property needed for the redevelopment of areas needing redevelopment that are located within the redevelopment district.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, invest in, or otherwise dispose of, through any combination of methods, property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the city and its inhabitants.

(3) Acquire from and sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the city, or to any other governmental agency, for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes, on any terms that may be agreed upon.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

~~(5)~~ (7) Repair and maintain structures acquired or to be acquired for redevelopment purposes.

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~~(6)~~ **(8)** Enter upon, survey, or examine any land, to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes, and determine the value of that land.

~~(7)~~ **(9)** Appear before any other department or agency of the city, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commission.

~~(8)~~ **(10)** Exercise the power of eminent domain in the name of the city, within the redevelopment district, in the manner prescribed by this chapter.

~~(9)~~ **(11)** Establish a uniform fee schedule whenever appropriate for the performance of governmental assistance, or for providing materials and supplies to private persons in project or program related activities.

~~(10)~~ **(12)** Expend, on behalf of the redevelopment district, all or any part of the money available for the purposes of this chapter.

~~(11)~~ **(13)** Contract for the construction, extension, or improvement of pedestrian skyways.

~~(12)~~ **(14)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

~~(13)~~ **(15)** Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

~~(14)~~ **(16)** Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision ~~(13)~~; **(15)**; or

(B) construct, rehabilitate, or repair commercial property within the district.

~~(15)~~ **(17)** Require as a condition of financial assistance to the owner of a multiunit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which

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may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the county's median income for families; and

(C) at an affordable rate.

Conditions imposed by the commission under this subdivision remain in force throughout the period determined under clause (A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

~~(+6)~~ **(18)** Provide programs in job training, job enrichment, and basic skill development for residents of an enterprise zone.

~~(+7)~~ **(19)** Provide loans and grants for the purpose of stimulating business activity in an enterprise zone or providing employment for residents of an enterprise zone.

~~(+8)~~ **(20)** Contract for the construction, extension, or improvement of:

(A) public ways, sidewalks, sewers, waterlines, parking facilities, park or recreational areas, or other local public improvements (as defined in IC 36-7-15.3-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the redevelopment district; or

(B) any structure that enhances development or economic development.

(b) In addition to its powers under subsection (a), the commission may plan and undertake, alone or in cooperation with other agencies, projects for the redevelopment of, rehabilitating, preventing the spread of, or eliminating slums or areas needing redevelopment, both residential and nonresidential, which projects may include any of the following:

(1) The repair or rehabilitation of buildings or other improvements by the commission, owners, or tenants.

(2) The acquisition of real property.

(3) Either of the following with respect to environmental contamination on real property:

(A) Investigation.

(B) Remediation.

~~(+3)~~ **(4)** The demolition and removal of buildings or improvements on buildings acquired by the commission where necessary **for any of the following:**

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

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- (C) To lessen density.
- (D) To reduce traffic hazards.
- (E) To eliminate obsolete or other uses detrimental to public welfare.
- (F) To otherwise remove or prevent the conditions described in IC 36-7-1-3. ~~or~~
- (G) To provide land for needed public facilities.

~~(4)~~ (5) The preparation of sites and the construction of improvements (such as public ways and utility connections) to facilitate the sale or lease of property.

~~(5)~~ (6) The construction of buildings or facilities for residential, commercial, industrial, public, or other uses.

~~(6)~~ (7) The disposition in accordance with this chapter, for uses in accordance with the plans for the projects, of any property acquired in connection with the projects.

(c) The commission may use its powers under this chapter relative to real property and interests in real property obtained by voluntary sale or transfer, even though the real property and interests in real property are not located in a redevelopment or urban renewal project area established by the adoption and confirmation of a resolution under sections ~~8(b)~~, **8(c)**, 9, 10, and 11 of this chapter. In acquiring real property and interests in real property outside of a redevelopment or urban renewal project area, the commission shall comply with section 12(b) through 12(e) of this chapter. The commission shall hold, develop, use, and dispose of this real property and interests in real property substantially in accordance with section 15 of this chapter.

(d) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(e) All powers that may be exercised under this chapter by the commission may also be exercised by the commission in carrying out its duties and purposes under IC 36-7-15.3.

SECTION 37. IC 36-7-15.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with **any of the following**:

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(1) The repair and maintenance of buildings that have been acquired and are not to be cleared.

(2) Investigation of environmental contamination.

(3) Remediation of environmental contamination.

~~his clearance, repair, and maintenance~~ The commission may be carried carry out the activities under this subsection by labor employed directly by the commission or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) In the replanning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, or improvement of levees, sewers, and utility services, the commission shall proceed in the same manner as private owners of property. It may negotiate with the proper officers and agencies to secure the proper orders, approvals, and consents.

(d) The commission may pay any charges or assessments made on account of orders, approvals, consents, and construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

(1) by special waiver filed with the works board, waive the statutory procedure and notices required by law in order to create valid liens on private property; and

(2) cause any assessments to be spread on a different basis than that provided by statute.

(e) None of the real property acquired under this chapter may be set aside and dedicated for public ways, sewers, levees, parks, or other public purposes until the commission has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

SECTION 38. IC 36-7-15.1-20, AS AMENDED BY P.L.185-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. In addition to its authority under any other section of this chapter, the commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination or the prevention of the development or spread of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes constituting a redevelopment project, or any rehabilitation or conservation work, or any combination of such an

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undertaking or work, such as **the following:**

- (1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.
- (2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary to **do any of the following:**
 - (A) Eliminate unhealthful, unsanitary, or unsafe conditions.
 - (B) **Mitigate or eliminate environmental contamination.**
 - (C) Lessen density.
 - (D) Reduce traffic hazards.
 - (E) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.
 - (F) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3. ~~or~~
 - (G) Provide land for needed public facilities.
- (3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project. ~~and~~
- (4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

SECTION 39 IC 36-7-15.1-22, AS AMENDED BY P.L.185-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the commission and all public and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the commission may also:

- (1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;
- (2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- (3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;
- (4) make preliminary surveys, **including environmental assessments**, to determine if the undertaking and carrying out of

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an urban renewal project are feasible;

(5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;

(6) make relocation payments in accordance with eligibility requirements of IC 8-23-17 or the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (42 U.S.C. 4621 et seq.) to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and

(7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

SECTION 40. IC 36-7-15.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) Any:

- (1) political subdivision; ~~or~~
- (2) other governmental entity;
- (3) public instrumentality created by state law; or**
- (4) public body created by state law;**

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The commission may delegate to:

- (1) an executive department of the consolidated city or county; ~~or~~
- ~~to~~
- (2) another governmental entity;
- (3) a public instrumentality created by state law; or**
- (4) a public body created by state law;**

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department or entity is authorized to act. The department, ~~or~~ entity, **public instrumentality, or public body** may then carry out or perform those powers or functions for the commission.

(c) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the commission or any other entity respecting action to be taken under this chapter, including the

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furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

SECTION 41. IC 36-7-15.1-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 41. (a) A political subdivision, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of a redevelopment or economic development project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with a redevelopment or economic development plan or project. These agreements may extend over any period, notwithstanding any other law."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1192 as printed March 13, 2007.)

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